



Ministry  
of Defence

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Reference: FOI2018/05457

25 June 2018

Dear [REDACTED]

Thank you for your email received by the department on 12 April 2018 requesting the following information:

*"Under the FOI Act, could you please supply details of compensation payouts to serving and former members of the armed services who developed non-freezing cold injuries due to military service. I would like the figures broken down by cases and years."*

The MOD sought clarification on your original request, and your email dated 26 April 2018 specified:

*"By dates I'm referring to the last five years and by all compensation I mean payments made through the AFCS and compensation paid to individuals through a private personal injury claim."*

The cost of responding to this request would have exceeded the appropriate limit set at £600 for central government and so under Section 12 of the Act, the MOD asked if your request could be reduced or refined to bring the cost of compliance under the limit. In your email dated 29 May 2018 you refined your request to the following:

- a) Total amounts paid out in the form of lump sum awards to successful AFCS claimants for Service-attributable non-freezing cold injuries in each of the 2012/13 to 2016/17 financial years, presented by year.
- b) The number of common law NFCI claims that were settled within financial years 2012/13 to 2016/17 and the total amount of compensation paid on each settled claim."

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence, and I can confirm that information in scope of your request is held. Some of the information falls entirely within the scope of the absolute exemptions provided for at section 40 (Personal Data) of the FOIA and has been withheld.

Information you have requested on the total amount of compensation paid to each settled common law claim have been withheld under Section 40(2) of the Freedom of Information Act to reduce the possible inadvertent disclosure of individual identities. The Section 40(2) exemption has been applied in order to protect personal information as governed by the Data Protection Act 1998. This is also in line with JSP200 Statistics Disclosure Guidelines. Section 40 is an absolute exemption and there is therefore no requirement to consider the public interest in making a decision to withhold the information.

Table 1 presents the number of claims awarded under the Armed Forces and Reserve Forces Compensation Scheme (AFCS) for non-freezing cold injuries (NFCI). Total amounts paid out in lump sum awards are also presented.

**Table 1: AFCS claims for NFCI that received an award, by financial year<sup>1</sup>, numbers and £<sup>2</sup>**  
01 April 2012 – 31 March 2017

	Total	2012/13	2013/14	2014/15	2015/16	2016/17
<b>Number of NFCI claims<sup>3</sup></b>	<b>799</b>	94	226	161	192	126
<b>Amount awarded (£)</b>	<b>6,513,600</b>	747,600	1,882,200	1,329,000	1,668,000	886,800

Sources: Compensation and Pension System (CAPS) and Veterans UK Finance Team

1. The number of NFCI claims registered between 1 April 2012 and 31 March 2017, broken down by the financial year the claim was cleared. The amounts awarded by financial year are the amounts paid out to the NFCI claims cleared in the same financial year.
2. Amounts awarded have been rounded to the nearest hundred.
3. Please note the figures presented in Table 1 are lower than the figures presented in the AFCS National Statistic. Table 1 presents the number of AFCS claims for NFCI that have been awarded, broken down by the financial year the claim was cleared. Figures in the AFCS National Statistic present the number of incidents of NFCI that have been awarded, broken down by the financial year the claim was registered. Each claim may result in more than one injury being awarded, for example, for different body parts, such as hands and feet.

Please note that the MOD only holds information centrally on the conditions claimed for and not the conditions for which they received a final award. Therefore, those that claimed for NFCI may have been awarded for a different type of injury.

Between 1 April 2012 and 31 March 2017, there were 12 NFCI claims that were awarded for a more severe injury/illness (a tariff level between 1 and 11) and as such, attracted a lump sum award plus a Guaranteed Income Payment (GIP), which is payable for life. Table 1 includes the lump sum awards, but the amounts paid out in the form of GIPs have not been included.

Table 2 presents the number of common law NFCI claims that have had damages settled, broken down by the financial year in which damages were paid, plus range of compensation paid.

**Table 2: Common law claims for NFCI that have been settled, by financial year and compensation range<sup>1</sup>, numbers<sup>2</sup>**

01 April 2012 – 31 March 2017

	Total	2012/13	2013/14	2014/15	2015/16	2016/17
<b>Total number of claims</b>	<b>451</b>	<b>56</b>	<b>95</b>	<b>86</b>	<b>109</b>	<b>105</b>
<b>£0 to £19,999</b>	<b>105</b>	24	29	17	19	16
<b>£20,000 to £39,999</b>	<b>120</b>	9	15	15	27	54
<b>£40,000 to £59,999</b>	<b>38</b>	~	10	5	12	~
<b>£60,000 to £79,999</b>	<b>26</b>	~	8	6	7	~
<b>£80,000 to £99,999</b>	<b>44</b>	5	14	12	9	4
<b>£100,000 to £119,999</b>	<b>49</b>	6	8	16	14	5
<b>£120,000 to £149,999</b>	<b>28</b>	3	7	6	9	3
<b>£150,000 +</b>	<b>41</b>	4	4	9	12	12

Source: Directorate of Judicial Engagement Policy Common Law Claims & Policy team

1. Rounded to the nearest £1.

2. These figures do not match the figures in the MOD Compensation Claims Bulletin. Table 2 present the number of NFCI claims that had their damages settled in each financial year. The figures in the MOD Compensation Claims Bulletin present the number of NFCI claims that had their final settlement in each financial year. Final settlement includes the settlement of damages plus legal costs. Legal costs are often settled later than damages, so the financial year of final settlement is not always the same year in which damages are paid.

- In line with JSP 200 directive on statistical disclosure control, figures fewer than 3 have been suppressed. Secondary cell suppression has also been applied so that suppressed figures cannot be derived from totals and sub-totals.

Table 3 presents the number of common law NFCI claims that have had damages settled, plus the total amount awarded in compensation to these claims, broken down by the financial year in which damages were paid.

**Table 3: Common law claims for NFCI that have been settled, by financial year, numbers and £<sup>1</sup>**

01 April 2012 – 31 March 2017

	Total	2012/13	2013/14	2014/15	2015/16	2016/17
<b>Number of NFCI claims</b>	<b>451</b>	<b>56</b>	<b>95</b>	<b>86</b>	<b>109</b>	<b>105</b>
<b>Amount awarded (£)</b>	<b>29,382,200</b>	3,042,400	5,678,100	6,723,800	7,974,300	5,963,500

1. Amounts awarded have been rounded to the nearest hundred.



## Armed Forces Compensation Scheme

The AFCS came into force on 6 April 2005 to pay compensation for injury, illness or death attributable to Service that occurred on or after that date. It replaced the previous compensation arrangements provided by the War Pensions Scheme (WPS) and the attributable elements of the Armed Forces and Reserve Forces Pensions Scheme. Defence Statistics publish an annual National Statistic on claims and awards under the AFCS:

<https://www.gov.uk/government/collections/armed-forces-compensation-scheme-statistics-index>

The next update is due to be published in June 2018 (as at 31 March 2018).

Claimants' injuries/illnesses considered to be Service-attributable are awarded under the AFCS in line with one of nine tariff of injury tables, which each cover the legislation surrounding the payment of compensation: Table 1 - Burns; Table 2 - Injury, Wounds and Scarring; Table 3 - Mental Disorders; Table 4 - Physical Disorders; Table 5 - Amputations; Table 6 - Neurological Disorders; Table 7 - Senses; Table 8 - Fractures and Dislocations; and Table 9 - Musculoskeletal Disorders. The information supplied in this response concerns awards made under Table 2 – Injury, Wounds and Scarring.

Within Table 2 there are a number of descriptors for non-freezing cold injury which are used to identify awards made under the scheme, based on a free text search for the following terms: 'non-freez' and 'non freez'. Due to potential spelling errors, figures supplied should be treated as a minimum.

AFCS data is sourced from the Compensation and Pension System (CAPS) which is administrated and managed by DBS Veterans UK.

This response presents the number of NFCI claims awarded compensation under the AFCS as at 31 March 2017. The figures provided includes awards made as a result of an initial claim or following a later review, reconsideration or appeal.

### Common law claims

Common law claims are dealt with by the Claims Unit within the department's Directorate of Judicial Engagement Policy (DJEP), by contractors operating in accordance with instructions provided by the Claims Unit, or by delegated authorities. When compensation claims are received they are considered on the basis of whether or not the MOD has a legal liability to pay compensation. Where there is a proven legal liability, compensation is paid.

The MOD publish statistics on claims brought against the MOD for compensation at common law:

<https://www.gov.uk/government/collections/mod-compensation-claims-statistics>

This response presents the number of claims awarded common law compensation as at 31 March 2017.

If you have any queries regarding the content of this letter, please contact this office in the first instance

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail [CIO-FOI-IR@mod.gov.uk](mailto:CIO-FOI-IR@mod.gov.uk)). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

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