



Ministry of Defence

Directorate of Judicial Engagement Policy -
Common Law Claims & Policy
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Reference: FOI2014/06222 [REDACTED]

Date: 19 December 2014

Dear [REDACTED],

1. Your communication of 21 October 2014 requested details of payments of compensation made by the Ministry of Defence to Afghan nationals in accordance with the Freedom of Information Act 2000. The delay in responding is very much regretted.

2. To clarify, your specific questions were as follows:

I would like details of the amount of compensation paid to Afghan nationals by year since 2006. I would also like details of the numbers of Afghan nationals who have received compensation from the Ministry of Defence since 2006.

I would also like to know which British law firms represented Afghan nationals seeking compensation from the Ministry of Defence.

If possible I would like to know how much the law firms were paid as part of the compensation settlements.

3. In answer to the request above it is confirmed that the Ministry of Defence holds certain information within the scope of your request and records the amount of compensation paid to Afghanistan nationals by year since 2004; although details of payments made by month are only available from 2006 onward and are extracted from the claims register as supplied by the Area Claims Officer, Afghanistan.

4. Regrettably, we are unable to distinguish between those payments that have been made on an ex-gratia basis and those payments made where legal liability has been proven. In this connection it may be helpful if I set out the manner in which claims for compensation received are considered.

5. When compensation claims are received they are considered on the basis of whether or not the Ministry of Defence has a legal liability to pay compensation. Where there is a proven legal liability, compensation is paid. The amount of compensation paid is determined by common law principles which, broadly, take account, as appropriate, of an individual's pain and suffering, degree of injury, property losses, past and future financial losses and level of care required. Levels of compensation including these elements can vary greatly depending on an individual's circumstances.

6. In Afghanistan, the UK, and other ISAF members, would in certain circumstances make ex gratia payments to individuals affected by operations involving our Armed Forces. Providing restitution for civilians who have suffered in these circumstances is the right thing to do. The levels of payment made reflect local custom, practice and economic factors as well as being broadly comparable to the practices adopted by other ISAF nations. These payments do not affect the rights of civilians to make a formal claim for compensation.

7. Please see the table below which sets out those payments made to Afghanistan nationals under the auspices of the Area Claims Officer Afghanistan in respect of fatalities, injuries and property damage during the period 2004 – 2014:-

<u>FY</u>	<u>Number of Injury Claims</u>	<u>Injury Claims Paid £¹</u>	<u>Number of Fatality Claims</u>	<u>Fatality Claims Paid £</u>	<u>Number of Property Damage Claims</u>	<u>Property Claims Paid £</u>
2004/05 ²	0	Nil	0	Nil	3	17,000
2005/06	0	Nil	0	Nil	15	34,000
2006/07	7 ³	17,000	See note 3		35	120,000
2007/08	22	31,000	10	73,000	371	298,000
2008/09	28	31,000	11	32,000	700	360,000
2009/10	56	64,000	84	293,000	740	783,000
2010/11	64	79,206	55	108,511	756	1,252,326
2011/12	13	41,978	12	27,496	463	436,609
2012/13	9	39,577	12	28,353	627	697,471
2013/14	4	3,279	2	6,987	181	230,016

Note 1: Payments were made in \$US/Afghanis, figures converted using relevant Government Accounting Exchange Rates.

Note 2: No figures available before FY04/05.

Note 3: No breakdown available between fatality and personal injury figures.

8. Please also refer to the attached claims database extracts which list the claims Recorded for FY's 2006/07, 2007/08, 2008/09, 2009/10, 2010/11, 2011/12, 2012/13 and 2013/14. These extracts have been redacted in accordance with Section 40 of the FOIA to remove details such as names, ages, addresses, etc as this is considered to be personal data. You will wish to be aware that the payments made appear on separate tabs on the attached worksheets as it is considered that payments made to individual claimants are also to be regarded as personal data under section 40 of the Act. However, it is at the same time recognised that there is legitimate interest in how many payments have been made and the levels of such payments; hence payment details have been extracted and sorted in descending order.

9. There are no records of any solicitors having acted on behalf of those Afghan nationals who received payments of compensation under the auspices of the Area Claims Office Afghanistan.

10. There are a number of claims from Afghan nationals arising from allegations of unlawful detention and personal injury that are being handled by the Ministry of Defence Common Law Claims and Policy in the United Kingdom. The progression of these claims is at a comparatively early stage and the numbers of those settled, and where payments of compensation have been made to date are such that, in order not to inadvertently reveal individual identities and in line with In line with Defence Statistics' rounding policy for health statistics (May 2009), and in keeping with the Office for National Statistics Guidelines, all numbers less than five are been suppressed so that numbers, and possibly identities cannot simply be derived from information supplied.

11. If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact us in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

12. If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <https://ico.org.uk/>.

13. I hope that this is helpful

Yours sincerely

COMMON LAW CLAIMS AND POLICY DIVISION