



Ministry
of Defence

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Dear [REDACTED]

Thank you for your email received by the department on 30 July 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 noise induced hearing loss due to military service.

By compensation I mean:

- a) Total amounts paid out in the form of lump sum awards to successful AFCS claimants for Service-attributable hearing loss in each of the 2012/13 to 2016/18 financial years, presented by year.
- b) The number of common law claims that were settled within financial years 2012/13 to 2016/18 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.

In line with the JSP 200, the number of successful AFCS claims for NIHL have been rounded to the nearest five. 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 noise induced hearing loss (NIHL). Total amounts paid out in lump sum awards are also presented.

Table 1: AFCS claims for NIHL that received an award, by financial year¹, numbers² and £³

01 April 2012 – 31 March 2018

	Total	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Number of NIHL claims⁴	1,600	305	430	290	270	165	140
Amount awarded (£)	11,294,500	2,323,300	3,157,600	1,938,200	1,822,100	1,134,400	918,900

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

1. Presented by financial year in which each claim was cleared.

2. In line with JSP 200, these numbers have been rounded to the nearest five.

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

4. Numbers are presented by financial year of claim clearance data and do not match numbers presented in the AFCS National Statistic, which are presented by financial year of claim registration date.

Between 1 April 2012 and 31 March 2018, there were 82 NIHL claims awarded under the AFCS for a more severe injury (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 presents 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 NIHL claims that have had damages settled, plus the total compensation awarded, broken down by the financial year in which damages were paid.

Table 2: Common law claims for NIHL that have been settled, by financial year¹, numbers² and £³

01 April 2012 – 31 March 2017

	Total	2012/13	2013/14	2014/15	2015/16	2016/17
Number of NIHL claims	7,706	2,154	1,895	1,682	954	1,021
Amount awarded (£)	47,065,700	12,015,800	11,155,100	8,377,700	6,358,600	9,158,600

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

1. Figures for the 2017/18 financial year have not been presented. The MOD publish statistics on claims brought against the MOD for compensation at common law. The next update covering the period 2017/18 is due to be published in September 2018:

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

2. These figures do not match the figures in the MOD Compensation Claims Bulletin. Table 2 present the number of NIHL claims that had their damages settled in each financial year. The figures in the MOD Compensation Claims Bulletin present the number of NIHL 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.

3. Amounts awarded have been rounded to the nearest hundred and represent amounts paid out for damages only, excluding any legal costs.

Under Section 16 (advice and assistance) you may wish to note the following:

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 latest update was published on 28 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 7 – Senses.

Within Table 7 – Senses, there are a number of descriptors for noise-induced hearing loss which are used to identify awards made under the scheme, based on a free text search for the following terms: 'blast injury to ear', 'bilateral permanent hearing loss', 'total deafness' and 'deafness'. 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 NIHL claims awarded compensation under the AFCS as at 31 March 2018. The figures provided includes awards made as a result of an initial claim or following a later review, reconsideration or appeal.

In line with the directives of the JSP 200, disclosure control is conducted on all statistical information provided by the MOD to safeguard the confidentiality of individuals. A risk of disclosure is considered to be high where numbers presented are fewer than three. In cases where a risk of disclosure exists, an appropriate disclosure control methods have been applied. Information on the number of conditions awarded under the AFCS is presented in Table 13 of the 2017/18 National Statistic (accompanying Annex A Tables). For Table 13, the method of disclosure control applied has been to round the figures to the nearest five. As such, the number of successful AFCS NIHL claims in Table 1 has also been rounded to the nearest five.

Information is presented in Table 1 by financial year in which each AFCS claim was cleared. This does not match figures in the AFCS National Statistics for awarded NIHL claims, which are presented by financial year in which each AFCS claim was registered.

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>

The next update covering the period 2017/18 is due to be published in September 2018.

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). 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

Defence Statistics (Health)