



Ministry
of Defence

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Dear [REDACTED]

Thank you for your email received by the department on 10 August 2018 requesting the following information:

1. How many claims are made under the AFCS per annum over the last five years?
2. How many of those claims, in percentage terms, request a reconsideration?
3. How many claims, in percentage terms, go forward to an appeals tribunal?
4. How many civil suits does the MOD receive for injury outside of the AFCS, over the last five years?"

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.

Table 1 presents the number of injury/illness claims made under the Armed Forces and Reserve Forces Compensation Scheme (AFCS) broken down by the year the injury/illness claim was registered. Table 1 also presents the proportion of these injury/illness claims that went on to have a reconsideration and the proportion of these injury/illness claims that went on to have an appeal. Table 1 presents injury/illness claims made by UK Armed Forces personnel and veterans when an injury or illness has been caused or made worse by Service. It excludes survivors' claims made by surviving dependents when the death of UK Armed Forces personnel has been caused by, or substantially hastened by Service.

Table 1: AFCS injury/illness claims, reconsiderations and appeals, by financial year¹, numbers and percentages

01 April 2013 – 31 March 2018

	Total	2013/14	2014/15	2015/16	2016/17 ²	2017/18 ²
Number of AFCS injury claims³	46,099	8,699	8,963	9,249	9,091	10,097
Proportion of injury claims that went on to have a reconsideration³	13%	21%	20%	16%	10%	2%
Proportion of injury claims that went on to appeal³	9%	11%	11%	9%	9%	4%

Source: Compensation and Pension System (CAPS)

1. Presented by the financial year in which each injury/illness claim was registered.
2. Reconsiderations must be made within 12 months from the date of the original decision, whilst appeals must be made within 24 months from the date of the original decision (or if applicable, the reconsideration decision). Therefore, it is expected that the proportion of injury/illness claims registered in the 2016/17 and 2017/18 financial years that go on to have a reconsideration and appeal will increase.
3. As at 31 March 2018.

Table 2 presents the number of common law injury claims that have had damages settled, broken down by the financial year the claim was registered.

Table 2: Common law injury claims that have been brought against the MOD, by financial year¹, numbers

01 April 2012 – 31 March 2017

	Total	2012/13	2013/14	2014/15	2015/16	2016/17
Common law injury compensation claims^{2,3}	11,182	2,856	2,515	2,474	1,698	1,639

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

1. Presented by the financial year in which each injury claim was registered. 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 financial year 2017/18 is due to be published in September 2018:

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

2. Includes employer's liability and clinical negligence claims made by current and former Service personnel.

3. These figures do not match the figures in the MOD Compensation Claims Bulletin. Table 1 in the report presents the number of clinical negligence claims made by current and former Service personnel, plus their dependents. Table 2 above excludes clinical negligence claims made by dependents.

Please note, it is possible for individuals to claim under both schemes (make a common law claim and claim under the AFCS).

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).

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

AFCS reconsideration process:

If a claimant is not satisfied with the outcome of their claim, they may ask for Veterans UK to reconsider their claim. This process enables an individual to explain why they do not agree with the decision taken on their claim. An application for a reconsideration must be made within 12 months from the date of the original decision. The application must be made in writing and should explain the reasons why the individual is not happy with the compensation decision. While reconsideration is not limited to examining the reasons why the individual disagrees with the decision, this is the main focus of the process.

DBS Veterans UK will look at the case again. The decision-maker who undertakes the reconsideration will be different from the original decision maker. During reconsideration, DBS Veterans UK can either maintain the decision already made or increase the award. The award cannot be reduced or removed. There may be cases where the outcome of a reconsideration leads to an increase in award level. This could lead to an increase in the level of an existing Guaranteed Income Payment (GIP) or mean that a GIP becomes payable for the first time.

For more information on the reconsideration process, please see JSP 765, the AFCS Statement of Policy, Part 1: Directive which can be access via the link below:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683176/20180215-JSP765-Official.pdf

AFCS appeals process:

If an individual is not happy with the reconsidered decision made in relation to their AFCS claim, they may appeal that decision to an independent tribunal. In England and Wales, appeals are heard by the War Pensions and Armed Forces Compensation Chamber of the First-tier Tribunal. In Scotland and Northern Ireland, appeals are heard by a Pensions Appeal Tribunal.

Appeals must be made within 12 months from the date of the original decision (or, where the individual has applied for a reconsideration before appealing, the reconsideration decision). There are some circumstances where the individual will be allowed to appeal beyond the 12 month period. Individuals cannot appeal after 24 months. The tribunal's decision could result in the award being maintained, increased or reduced.

On receipt of the tribunal decision, if either party (the individual or MOD), does not agree with the decision they have a further right of appeal. The further appeal to the higher level tribunal must be made within 42 days (6 weeks) from when the tribunal issued their written reasons for the decision. The higher level tribunal is: in England and Wales, the Upper Tribunal (Administrative Appeals); in Scotland, the Upper Tribunal; and in Northern Ireland, the Pensions Appeal Commissioners. For more information on the appeals process, please see JSP 765, the AFCS Statement of Policy, Part 1: Directive which can be access via the link below:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683176/20180215-JSP765-Official.pdf

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 common law claims 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)