



Ministry  
of Defence

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Reference: FOI2019/09253

11 September 2019

Dear [REDACTED]

Thank you for your email received on 08 August 2019 requesting the following information:

“Under the FOI Act, could you provide details of the number of service personnel and veterans who are appealing against offers of compensation and GIP awards under the AFCS.

I would also like details of the percentage of claims which results in appeals and I would like the number of appeals for the last three years.

Separately, I would also like details of the number of cases in which veterans and service personnel are taking legal against against the MoD over failed AFCS claims or those where the amount being offered is being disputed.”

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.

As at 31 March 2019, **1,191** Service personnel and veterans were appealing a claim under the Armed Forces Compensation Scheme (AFCS) following an award (either a lump sum plus a Guaranteed Income Payment (GIP) or lump sum only). Events prior to an appeal can include initial claims, reconsiderations and/or reviews. In all cases, an award was made in at least one event prior to the registration of the appeal. It is worth noting that it is possible for a single person to lodge multiple appeals against multiple claims. Where this has occurred, the individual has been counted once.

Defence Statistics have assumed that the subsequent questions also refer to appeals registered by Service personnel and veterans. Therefore, appeals registered by dependants following death-in-service have been excluded and totals listed may differ from those in the bulletin.

As at 31<sup>st</sup> March 2019, **10%** of all initial AFCS claims for injury or illness by Service personnel and veterans have resulted in an appeal. These initial claims include those where an award was made, rejected applications and those resulting in ‘Accepted No Award’ status<sup>1</sup>.

Table 1 presents the number of AFCS appeals registered within the 2016/17, 2017/18 and 2018/19 Financial Years. These include appeals made by both Service personnel and veterans.

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1. AFCS injury/illness claims that are deemed Service-attributable, but not serious enough to warrant financial compensation in the form of a Guaranteed Income Payment (GIP) and/or a lump sum.

**Table 1: Appeals registered by service personnel and veterans from 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2019, by financial year<sup>1</sup>, numbers**

Number of appeals registered as at 31<sup>st</sup> March 2019

Year	All Years <sup>2</sup>	2016/17	2017/18	2018/19
<b>No. of Appeals</b>	3,557	972	1,279	1,306

Source: The Compensation and Pension System (CAPS)

1. By financial year the appeal was registered
2. 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2019

In response to the last part of your request, Veterans and service personnel who are dissatisfied with the decision on a claim for benefit under the AFCS cannot take legal action against the MOD. Since the AFCS is a no-fault compensation scheme, appeals are made to an independent First Tier Tribunal under Section 5A(1) of the Pensions Appeals Tribunal Act 1943. When the First Tier Tribunal hand down their decision, the individual can pursue their appeal to the Upper Tier Tribunal, on a point of law.

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.

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

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 27 June 2019 (as at 31 March 2019).

The AFCS uses a tariff system with 15 levels which reflect the severity of the injury, with tariff level 1 being associated with the most serious injuries and 15 with the least serious. Every AFCS claim awarded a tariff level 1 to 15 includes the payment of a lump sum for the injury/illness. For more serious injuries/illnesses which have been awarded a tariff level 1 to 11, an income stream is paid in addition to the lump sum. This is known as the Guaranteed Income Payment (GIP) and is paid for life<sup>2</sup>.

If an individual is not happy with the decision made in relation to their AFCS claim, in most cases, they may appeal that decision to an independent tribunal. Once an appeal is made, DBS Veterans UK will first look to see if a reconsideration has been conducted on the claim. If one has not been undertaken, they will automatically undertake a reconsideration. This reconsideration enables DBS Veterans UK to take a fresh look at the case. The outcome of the reconsideration may lead to the appeal being resolved and not proceeding to an independent tribunal.

However, if a reconsideration has previously been conducted or the reconsideration does not change the decision, the case will proceed to an independent tribunal; which consists of a legally qualified Chair, a medical member and an ex-Service member. 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).

Appeals listed as 'pending' as at 31<sup>st</sup> March 2019 are still being considered, however are subject to change following case progression. However, this will not be indicated until the date that the next snapshot is taken.

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/683176/20180215-JSP765-Official.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683176/20180215-JSP765-Official.pdf)

More information about the AFCS appeals process can be found in the JSP 765: Armed Forces Compensation Scheme Statement of Policy<sup>3</sup>.

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

Defence Statistics (Health)

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<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/803492/JSP\\_765\\_Part\\_1\\_V6.0\\_May\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803492/JSP_765_Part_1_V6.0_May_2019.pdf)