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27 January 2020

Dear [REDACTED]

Thank you for your email of 2 January 2020, requesting the following information:

“Please could you provide the number of claims, compensation and legal costs under the scheme mentioned above?” [Armed Forces Compensation Scheme]

You sent this email following the receipt of two FOI responses relating to common law injury claims for non-freezing cold injury (NFCI) (FOI 2019/13174) and heat illness (FOI 2019/13175). These FOIs provided information on settled common law claims since 31 August 2012 and their associated costs. Therefore, we have interpreted your request to be asking for successful claims made under the Armed Forces Compensation Scheme (AFCS) for NFCI and heat illness since 31 August 2012.

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

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.

Between 31 August 2012 and 31 March 2019 (latest date available), there were **60** claims awarded under the AFCS where the condition claimed for was heat illness<sup>1</sup>. For these successful claims, **£241,500** was paid out in lump sum<sup>2</sup> awards and **£121,200** has subsequently been paid out in Guaranteed Income Payments<sup>2</sup> (GIPs). No legal costs were incurred for these claims.

Between 31 August 2012 and 31 March 2019 (latest date available), there were **1,100** claims awarded under the AFCS where the condition claimed for was NFCI<sup>1</sup>. For these successful claims, **£9,102,000** was paid out in lump sum<sup>2</sup> awards and **£1,279,100** has subsequently been paid out in GIPs<sup>2</sup>. The total legal costs incurred for these claims was **£3,800**<sup>3</sup>.

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<sup>1</sup> These claims were cleared under the AFCS between 31 August 2012 and 31 March 2019 but may have been registered under the AFCS prior to 31 August 2012. Additional claims for heat illness and NFCI may have been registered since 31 August 2012 but have not been counted in this response as they were pending a decision as at 31 March 2019.

<sup>2</sup> Amounts have been rounded to the nearest hundred. Amounts paid out in Guaranteed Income Payments (GIPs) were as at 22/01/2020.

<sup>3</sup> Amounts have been rounded to the nearest hundred and only present legal costs incurred for claims cleared on or after 31 August 2012. AFCS claims cleared before 31 August 2012 could have incurred legal costs on or after this date but have been excluded from this response. See Section 16 for more information about legal costs.

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

## Armed Forces Compensation Scheme

The Armed Forces and Reserve Forces Compensation Scheme (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 is sourced from the Compensation and Pension System (CAPS) which is administrated and managed by DBS Veterans UK.

Data were extracted from the CAPS as at 31 March 2019 to inform the latest published National Statistics, as published on the Gov.uk website on 27 June 2019:

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

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

Please note it is not possible to reliably determine awards for heat illness specifically. Heat illness awards have been identified based on a free text search of the condition claimed for using the following terms: 'heat', 'hyperthermia', 'dehydration', 'urticaria', 'syncope' and 'light'. The condition claimed for is based on information supplied by the claimant and does not necessarily reflect a diagnosis of heat injury. Awards made to those that claimed for heat injury may have been awarded for a different injury or illness. Therefore, these figures should be treated with caution.

This response presents the number of NFCI and heat illness claims awarded compensation under the AFCS between 31 August 2012 and 31 March 2019. The figures provided includes awards made as a result of an initial claim or following a later review, reconsideration or appeal.

The AFCS statistics are subject to routine revisions and historic data may be amended (see Background Quality Report for further information:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/811417/20190627 - AFCS National Statistics BQR - O.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/811417/20190627_-_AFCS_National_Statistics_BQR_-_O.pdf))

Tax-free lump sum awards are paid to all Service personnel and veterans as compensation for pain and suffering for an injury or illness that is predominantly caused or made worse by Service. Lump sum awards can be made whilst the claimant is still in Service. Where a lump sum award has been made at tariff levels 1-11 (reflecting a more serious injury/illness), the claimant will also be awarded a tax-free index-linked income stream known as a Guaranteed Income Payment (GIP). A GIP will be paid from Service termination for life to recognise long-term loss of earnings.

All AFCS decisions carry a right to appeal at an independent tribunal. Both parties can appeal the tribunal's decision to a higher court (the Upper Tier Tribunal - UTT) but only on a point of law. Where a claimant is dissatisfied with the outcome of their claim, they appeal to the Lower Tier Tribunal (LTT). Where the appellant appeals the decision to the UTT, the Secretary of State for

Defence (SSD) defends its position, sometimes using Government Legal Department (GLD) which can incur legal costs.

Defence Business Service (DBS) Veterans UK hold data on cleared and open 'appellant-led' appeal challenges. The legal costs are invoiced to DBS Veterans UK by the GLD on a monthly basis. Each invoice breaks down the costs incurred on that case in the relevant month. The legal costs all refer to applications for leave to appeal against First Tier Tribunal decisions

Advice is not always sought from the GLD in order to deal with a case in the Upper Tribunal, especially if leave to appeal is denied the appellant. Therefore, not all cases incur legal fees.

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)