



Ministry  
of Defence

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Reference: FOI2019/12287

29 January 2020

Dear [REDACTED]

Thank you for your email received by the department on 25 October 2019 requesting the following information:

“Under the FOI Act, could you please supply details for the following:

- a) Total amounts paid out in the form of lump sum awards to successful AFCS claimants for Service-attributable hearing loss injuries in each of the 2012/13 and 2018/2019 to, presented by year.
- b) The number of common law Service-attributable hearing loss claims that were settled within financial years between 2012/18 and 2018/2019 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 Armed Forces Compensation Scheme (AFCS) claims for noise induced hearing loss (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 to the following data in line with JSP200 Statistical Disclosure Guidelines in order to protect personal information as governed by the Data Protection Act 2018:

- AFCS
- DJEP common law claims

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 year<sup>1</sup>, numbers<sup>2</sup> and £M<sup>3</sup>**  
01 April 2012 – 31 March 2019

	Total	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>Number of NIHL claims<sup>4</sup></b>	<b>1,700</b>	305	430	290	275	170	140	85
<b>Lump sum amount awarded (£M)<sup>5</sup></b>	<b>12.16</b>	2.33	3.19	1.96	1.84	1.18	0.94	0.72

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

1. Presented by financial year in which each initial 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 million.
4. The numbers presented in this response do not match the numbers presented in the AFCS National Statistic (<https://www.gov.uk/government/collections/armed-forces-compensation-scheme-statistics-index>). The AFCS National Statistic presents the number of conditions awarded under the AFCS by the financial year the claim was registered. This response presents the number of claims awarded under the AFCS by the financial year the claim was cleared.
5. Amounts are presented by the financial year the initial claim was cleared. If a claim had subsequent activity (a reconsideration, appeal and/or review) which led to an increase in the lump sum award, the increase in lump sum value is presented in the financial year the initial claim was cleared, not the financial year the increase in lump sum award was made.

Of the 1,700 NIHL claims awarded compensation under the AFCS between 1 April 2012 and 31 March 2019, 85 were awarded for a more severe injury (a tariff level between 1 and 11). These more severe injuries attracted a lump sum award plus a Guaranteed Income Payment (GIP), which is payable for life. Table 1 presents the lump sum awards for these claims, but the amounts paid out in the form of GIPs have not been included.

Table 2 presents the number of common law NIHL claims in relation to Service personnel that have settled broken down by financial year. Settled claims are those where damages have been awarded to the claimant and the damages and associated legal costs have been paid.

The figures presented in Table 2 differ to figures provided in your previous FOI request (FOI2018/10120), in which the amount of damages awarded were presented by the financial year the damages were settled. Table 2 presents the amount of damages awarded to NIHL claims by the financial year of final settled i.e. the financial year where damages have been awarded to the claimant and both the damages and the associated legal costs have been settled. Please note that 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.

This change was driven by MOD contractors who hold data on common law claims.

**Table 2: Military common law claims for NIHL that have been settled, by financial year, numbers<sup>1,2</sup> and £M<sup>3</sup>**

01 April 2012 – 31 March 2019

	Total	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>Number of NIHL claims</b>	<b>8,639</b>	1,907	1,786	1,627	795	917	798	809
<b>Amount awarded (£M)</b>	<b>56.45</b>	10.16	9.45	7.98	3.79	5.88	7.49	11.73

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

1. The MOD publish statistics on claims brought against the MOD for compensation at common law. The latest update covering the period 2018/19 was published 13 December 2019: <https://www.gov.uk/government/collections/mod-compensation-claims-statistics>
2. The figures presented in Table 2 have been compiled from live data, which are continuously updated and cleansed by MOD contractors. Figures were correct as at 23 December 2019. Figures may differ from those previously published in the MOD Compensation Claims Bulletin. It is possible the total may not match with figures previously published. Late payments are made on occasion and the contractors will overwrite the claims closed date with the late payment date, which can lead to the same claim being shown as settled in more than one financial year in the published data.
3. Amounts awarded have been rounded to the nearest million 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 WPS:

<https://www.gov.uk/government/collections/war-pension-recipients-index>

The latest update was published on 27 June 2019 (as at 31 March 2019).

Defence Statistics also 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).

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 2019. The figures provided includes awards made as a result of an initial claim or following a later review, reconsideration or appeal.

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 latest update covering the period 2018/19 was published 13 December 2019.

This response presents the number of military claimants awarded common law compensation as at 31 March 2018. Civilians are also entitled to claim compensation for NIHL. However, the request specified 'Service-attributable' and therefore, civilians have been excluded.

The figures presented in this response have been compiled from live data, which are continuously updated and cleansed by MOD contractors. Figures were correct as at 23 December 2019. Figures may differ from those previously published in the MOD Compensation Claims Bulletin. It is possible the total may not match with figures previously published. Late payments are made on occasion and the contractors will overwrite the claims closed date with the late payment date, which can

lead to the same claim being shown as settled in more than one financial year in the published data.

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)