

Ref: FOI2021/04547

26 May 2021

Dear [REDACTED]

Thank you for your email of 27 April 2021 to the Ministry of Defence (MOD) requesting the following information:

*“What are the eligibility tests that medical advisors and decision makers use to determine the level of award, i refer specifically to rules D.5 and D.6, tiers 2 and 3?”*

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 and no information is held on eligibility tests. Section 1 of the FOIA gives an applicant the right to access recorded information held by public authorities at the time the request is made and does not require public authorities to answer questions, provide explanations or give opinions, unless this is recorded information held.

Under Section 16 (Advice and Assistance) it may be helpful if I explain that rules D.5 and D.6 are taken from The Armed Forces Pension Scheme Order 2005. Please see the policy regarding this below:

**“AFPS 05**

*Under AFPS 05, there are 3 levels of ill-health award which can be made when a member is medically discharged. For a Tier 3 and Tier 2 award, Rules D.5 and D.6 apply under the 05 legislation.*

*Rule D.6 relates to the criteria for a Tier 2 award and this advises that an active member is entitled to immediate payment of a pension and lump sum before reaching pension age if, in the opinion of the Secretary of State, after consultation with the scheme medical adviser, the member has suffered a breakdown in health as a result of which his capacity for gainful employment is significantly impaired.*

*Rule D.5 relates to the criteria for a Tier 3 award and this advises that an active member is entitled to an immediate pension and lump sum before reaching pension age if, after consultation with the Scheme medical adviser, the Secretary of State is of the opinion that the member has suffered a permanent breakdown in health involving incapacity for any full-time employment.”*

The decision as to whether a member qualifies for a Tier 2 or Tier 3 award is a judgement based on whether the medical evidence supports a significant functional limitation, meeting the

test of continuance until normal retirement age. In simple terms, this means that the conditions leading to medical discharge are considered by the Medical Adviser to be significant enough that the member's full-time employment prospects are, and will continue to be, significantly impaired, until the age at which their service pension would normally be payable.

All cases are reviewed by Desk Officers, Medical Advisors and Deciding Officers on their own merits. This can include, but is not limited to, review of Military medical records, medical evidence from third parties such as a GP or Hospital, as well as records provided by places such as Combat Stress and Help for Heroes.

You may wish to be aware that further information on the Armed Forces Pension Schemes can be found on the Gov.UK website at the following link:

<https://www.gov.uk/guidance/pensions-and-compensation-for-veterans>.

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 Business Services Secretariat