



Ministry
of Defence

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25 May 2021

Dear [REDACTED],

Thank you for your email received by the department on 26 April 2021 requesting the following information:

"In a previous Fol response [Ref: FOI2019/12287] you published details on claims made under the AFCS and common law for service-attributable hearing loss.

Could you provide me with similar updated tables but which now include claims settled in 2019/20?"

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.

Information for noise induced hearing loss (NIHL) claims awarded under the Armed Forces Compensation Scheme (AFCS) for the financial year 2019/20 is exempt under Section 21 of the Freedom of Information Act (FOIA), because it is reasonably accessible to you by other means. Information on NIHL claims awarded in 2019/20 is already in the public domain (FOI2020/05118), and a copy of this information has been provided with this response.

Table 1 presents the number of settled common law NIHL claims brought by current and former Service personnel and the amount awarded in damages by the financial year of final settlement. 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.

Table 1: Damages paid out on settled NIHL common law claims brought by current and former service personnel, by financial year and £

1 April 2012 – 31 March 2020

	Total	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Number of NIHL claims	9,660	1,907	1,788	1,628	796	915	796	829	1001
Amount awarded (£m)	72.26	10.17	9.47	8.52	3.79	5.88	7.48	11.72	15.23

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

- The figures presented in Table 1 have been compiled from live data, which are continuously updated and cleansed by MOD contractors. Figures are correct as at 31 March 2021. Figures may differ from those previously published in the MOD Compensation Claims Bulletin and may not match with figures previously published. Sometimes it is necessary to reopen a claim, this could be due to late payment which will mean the claims closed date is overwritten with the late payment date which can then lead to a change to the Financial Year of final settlement. It may be that a claim is reopened but a further payment is not required, however, the system will need to update any closed date which still may result in a change to the Financial Year of final settlement
- Amounts awarded 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 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 August 2020 (as at 31 March 2020).

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 25 June 2020 (as at 31 March 2020).

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 2019/20 was published 10 December 2020.

Please note civilians are also entitled to claim compensation for NIHL, however, the request specified 'Service-attributable' and therefore, civilians have been excluded.

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