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Ref: FOI2021/15106

December 2021

Dear

Thank you for your email of 8 December 2021 to the Ministry of Defence (MOD), refining your request for the following information:

“Further to your letter below, I hereby revise my FOIA request to limit it to answering questions 4-7 for the first 73 claims.

In relation to the costs questions, I am not asking for any personal information so believe you have applied the exemption quoted incorrectly. I would therefore like to escalate that part of the request as a complaint for review by the Information Rights Compliance Team cc'd”.

Please see the answers to the following Questions below:

4. Of those ME/CFS claims where an award under AFCS was not made, how many were refused an award because ME/CFS has an unknown aetiology?
5. How many of the above have been reviewed under Art 59 “mistake in law” after the Tribunal case for held that being of unknown aetiology was not a basis to refuse an AFCS award for ME/CFS?
6. Of those who were given an AFCS award for ME/CFS, how many of those awards were reduced or set taking into account the concept of the “illness beliefs” of the claimant, or something similar?
7. How many of the above have been/will be reviewed under Art 59 “mistake in law” after the Tribunal in the claim of Tier recently held that “illness beliefs” for ME/CFS should be included in award calculation under Art 5 of the AFCS Order?”

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA). I would first like to apologise for the delay in providing this response.

A search for the information has now been completed within the MOD and I can confirm all the information in scope of your request is held.

In answer to Question 4 I can confirm that two AFCS claims of the first 73 were refused because ME/CFS has an unknown aetiology.

I can confirm that none of the 73 cases have been reviewed under Article 59 due to a “mistake in law” to answer Question 5.

To answer Question 6, one award was made taking into account the “illness beliefs” of the claimant.

In answer to your final Question no cases have been reviewed under Article 59 because ME/CFS should be included in award calculation under Article 5 of the AFCS Order.

I can also confirm your additional question regarding the costs being withheld under S40 of the FOIA has been referred to the MOD Information Rights Compliance Team for an Internal Review to be conducted as per your request.

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 Business Services Secretariat