



Ministry of Defence

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13 January 2022

Dear [REDACTED],

Thank you for your emails on 20 and 21 December 2021 requesting the following information:

Email from 20 December 2021 [in response to FOI2018/01438]:

“Thank you for your response, however my questions have not been fully answered, could you please review with questions below.

The Tier of which each member exited under and if they remained on that tier?

Did they get compensation (yes or no) under the AFCS?

If they appealed the decision and what the outcome of that appeal was?

Also if it was decided as service attributed or not?”

Email from 21 December 2021:

“My Questions are as follows

1) The Tier or percentage of disability of which each service person Medically Discharged due to Chronic Fatigue Syndrome existed under either WPS or AFCS in the last 5 Years?

2) If they appealed the decision and what the outcome of that appeal was, did the awards increase or remain the same ?

3) *Also if it was decided as service attributed or not for Chronic Fatigue Syndrome?”*

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

The Ministry of Defence requires further information in order to determine whether it holds information within the scope of your request. In particular, we require you to clarify the following:

1. Please confirm whether your questions relate to service personnel who medically discharged between 1 April 2012 and 31 March 2017 as presented in FOI 2018/01438.
2. Please confirm if your first question refers to:
 - The tier of medical pension under the Armed Forces Pension Scheme (AFPS).
 - The tariff level under the Armed Forces Compensation Scheme (AFCS).
 - The disablement percentage under the War Pension Scheme (WPS).
3. Please confirm if your question regarding appeals and their outcome is related to:
 - The tier an individual was allocated to under the AFPS (05 or 15).
 - The tariff level an individual was awarded under the AFCS.

- The disablement percentage an individual was awarded under the WPS.
4. Please confirm if your final question is regarding whether an individuals' medical discharge was service attributable. Please note all individuals awarded under the AFCS or the WPS have been awarded for conditions considered to be service attributable.

Under section 16 (advice and assistance), please note, the AFPS, AFCS and WPS are separate schemes available to UK Armed Forces personnel under which individuals can receive remuneration. The AFPS 75, 05 and 15 are occupational pension schemes and the WPS and AFCS are compensation schemes. The AFPS, WPS and AFCS are managed by Defence Business Service (DBS) Veterans UK within the MOD.

Armed Forces Pension Scheme

5. The Armed Forces Pension Scheme (AFPS) 75 was introduced in 1975 and was closed to new entrants from 6 April 2005. The AFPS 05 was the scheme applicable to those joining the Regular UK Armed Forces from 6 April 2005. Serving members of AFPS 75 were given an opportunity to transfer to AFPS 05 by 6 April 2006. A new scheme was introduced in 2015 (AFPS 15) for those joining the Regular UK Armed Forces from 1 April 2015.

6. The AFPS 15 scheme has three levels of ill health award depending on the severity of the medical condition. The Early Departure Payment 15 Regulations make provision for payment of an ill-health lump sum benefit (Tier 1) to members of AFPS 15, while Tier 2 and Tier 3 awards, for more serious conditions, provide a pension for life and are provided for in the AFPS 15 regulations.
 - A Tier 1 award is where the individual is deemed to be unfit for service in the Armed Forces because of physical or mental impairment, but their ability to obtain gainful civilian employment is not significantly impaired. If the member has passed the point at which they would become eligible for an Early Departure Payment (EDP), they receive an EDP lump sum and monthly income payments instead. The member would not be able to receive both an EDP and a Tier 1 lump sum.
 - A Tier 2 award is made where the member has suffered a breakdown in health as a result of which capacity for gainful employment is significantly impaired and is expected to remain so until age 60. If the member has passed the point in which they would become eligible for an EDP or another form of AFPS 15 pension, they will receive an enhanced taxable income that is paid for life and the award is made in lieu of an EDP and any other form of AFPS 15 pension.
 - A Tier 3 award is made where the member is deemed to have suffered a permanent breakdown in health involving incapacity for any gainful full-time employment. If the member has passed the point at which they would become eligible for an EDP or another form of AFPS 15 pension, they will receive an enhanced taxable income that is paid for life and the award is made in lieu of an EDP and any other form of AFPS 15 pension.

7. For the legacy schemes, members will have accrued rights to:
 - AFPS 05 same as AFPS 15 except age 55 is used instead of age 60.
 - AFPS 75 scheme has a single tier ill health pension.

8. Members have the right to appeal their Tier decision under the Internal Disputes Resolution Procedures (IDRP) if they feel that DBS Veterans UK have made an incorrect assessment of their level of injury or ill-health.

Armed Forces Compensation Scheme

9. The Armed Forces Compensation Scheme (AFCS) provides compensation for any injury, illness or death which is caused by service on or after 6 April 2005. It replaces the War Pension Scheme (WPS), which had been in place since 1917. Where the injury is partly caused or made worse by service, compensation is payable if, on the balance of probabilities service is the predominant cause of the injury or of the worsening of the injury.
10. Claimants' injuries/illnesses considered to be Service-attributable are awarded under the AFCS in line with one of nine tariff 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.
11. The legislation surrounding the payment of compensation under each tariff of injury table also determines the tariff level at which each injury/illness should be paid compensation. There are 15 tariff levels which each attract a lump sum award. Tariff levels 1-11 also attract an ongoing Guaranteed Income Payment (GIP) which is a tax-free index-linked income stream that is paid from service termination for life to recognise loss of future earnings due to the injury or illness.
12. If an individual is in receipt of a GIP under the AFCS, the amount of GIP paid is adjusted to take into account any income streams received under the AFPS.
13. When an individual is medically discharged, and has been considered eligible for an ill-health pension, DBS Veterans UK will automatically consider the principal medical condition leading to medical discharge to determine whether it is caused by service and therefore warrants an AFCS award. This will not happen if the individual already has an AFCS award for that condition or made an unsuccessful claim for an AFCS award for that condition.
14. A claimant can lodge an appeal to an independent tribunal if they are unhappy with the reconsidered outcome of their initial AFCS claim. Where an appeal has been lodged and a reconsideration has not already been carried out, the MOD must carry out a reconsideration of the original decision and notify both the claimant and the Tribunal of the reconsideration outcome. The request must be received within six months of the notification date of the reconsideration outcome. The Tribunal is held by the HM Courts and Tribunals Service (England, Scotland and Wales) and the Northern Ireland Courts and Tribunals Service and is independent from the MOD. The Tribunal is bound by the rules of the scheme.

War Pension Scheme

15. The War Pensions Scheme (WPS) is a no-fault scheme which provides compensation for Service personnel who are disabled or die due to injury caused or made worse by service in the UK Armed Forces before 6 April 2005.

16. Compensation is paid for injuries which arise as a result of service or are made worse by service, regardless of how they are sustained. No distinction is made between injuries sustained on operations, and those incurred during training, service-approved sport, or while exercising to maintain fitness.
17. WPS disablement claims determined to be service-attributable are awarded a disablement percentage between 0% and 100%:
- Those awarded at a disablement percentage of **20% - 100%** (recorded in 10% increments) are paid an ongoing weekly war pension.
 - Those awarded at a disablement percentage of **1% - 19%** are paid a one off gratuity (lump sum) payment. These cases appear in the WPS data with a grouped disablement percentage of one of the following: 1-5%, 6-14%, 15-19%.
 - Cases where the claimed injury/illness is determined to be Service-attributable but not severe enough to impact on daily life are awarded a nil (**0%**) award.
18. A War Disablement Pension (WDP) will be considered automatically without the need for a claim form when an individual is medically discharged, and DBS Veterans UK has received the medical discharge papers. In these cases, the individual's service medical documents will be sent to DBS Veterans UK automatically once a medical board has taken place and a copy of the report is available. Upon receipt of these documents, DBS Veterans UK may request more evidence or seek advice from medical advisors before they can make a decision. DBS Veterans UK cannot notify their decision or make any payments prior to the date of discharge.
19. If a claimant is unhappy with the outcome of their claim they can appeal to an independent tribunal. Tribunals are held by the HM Courts and Tribunals Service (England, Scotland and Wales) and the Northern Ireland Courts and Tribunals Service and are independent from DBS Veterans UK. The Tribunal is bound by the rules of the scheme. If the decision is upheld, the Tribunal have agreed with the Secretary of State's original decision.

Once you have clarified your request, I will be pleased to consider it again.

Please remember to quote the reference number above in any future communications.

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