

Reference:FOI2022/05382

31 May 2022

Dear [REDACTED]

Thank you for your request of 26 April 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 2020/21?”

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. However, Section 40(2) has been applied to some of the information to protect personal information as governed by the Data Protection Act 2018 and GDPR. 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.

Table 1 presents the number of NIHL claims awarded under AFCS between 1 April 2012 and 31 March 2021. Of the 1,790 NIHL claims awarded, 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 1: AFCS claims for NIHL that received an award, by financial year¹, numbers² and £M³
01 April 2012 – 31 March 2021

	Total	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Number of NIHL claims⁴	1,790	305	430	290	275	170	140	85	50	40
Lump sum amount awarded (£M)⁵	13.0	2.33	3.19	1.96	1.98	1.18	1.01	0.72	0.36	0.24

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 10,000.
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.

Table 2 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 2: 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 2021

	Total	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Number of NIHL claims	10,338	1,907	1,787	1,627	796	915	796	829	996	685
Amount awarded (£M)	81.06	10.17	9.46	7.97	3.79	5.88	7.48	11.72	15.16	9.44

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

1. The figures presented in Table 2 have been compiled from live data, which are continuously updated and cleansed by MOD contractors. Figures may differ from those previously published in the MOD Compensation Claims Bulletin. 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.
2. 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 24 June 2021 (as at 31 March 2021).

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 24 June 2021 (as at 31 March 2021).

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 2021. 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 2020/21 was published 4 November 2021.

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,

Directorate of Judicial Engagement Policy
Common Law and Claims Policy