



Defence Business Services

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Ref: FOI2022/07843

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28 July 2022

Dear [REDACTED]

Thank you for your email of 29 June 2022 to the Ministry of Defence (MOD), requesting the following information:

"Thank you for sending me the latest version of 'Financial Redress for Maladministration Guidance' dated 24/6/22. I note this only refers to simple interest to be calculated and it posts dates the time frame (1997 - end of tax year 2021/2022) of my initial FOIA request dated 28 March 2022 and is somewhat helpful, as it indicates an amendment at some stage since 2008. But, please note in 2008 Compound interest was indeed paid to veterans when arrears were over a ten-year period like in my case. Therefore, you must please give me the information in the context of my FOI2022/05404 which shows when 'compound interest' ended and simple interest took over. This is important so I get the correct interest I am due. Also, there would have been a calculator for 'compound interest' for periods over ten years as stated in my initial FOIA2022/05404 for the years it was active - I still wish to receive these 'table factors once you ascertain the years 'Compound Interest' was active since 2008"

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 MOD and I can confirm some information in scope of your request is held.

I can confirm that the MOD ceased to pay Compound Interest to veterans in September 2016 and the guidance for Simple Interest payments was followed from this time. Please find below a paper recommending the change, the agreement by the DBS Operations Board and confirmation of the change endorsed by the Government Legal Department.

In response to your request for copies of the Table factors and Compound Interest calculations. Under Section 16 of the FOIA I can confirm that the MOD retention period for documents which have been superseded by a change has been exceeded. Please find below the only scanned copies of the old guidance still held by MOD. Unfortunately, the quality of printing of these documents is poor as they were hard copies of documents that had to be scanned. The electronic calculator that was used to calculate Compound Interest was bought in from an outside source and MOD therefore no longer has access to it.

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

A solid black rectangular box used to redact the signature of the Defence Business Secretariat.

Defence Business Secretariat

2 Sept 16

Operations Board Members

Payment of Interest on Pay and Pension Arrears and Maladministration

Issue

1. To consider the inconsistency of approach to the payment of interest on pay and pension arrears and maladministration in operation across DBS.

Recommendation

2. The Operations Board Members are recommended to:
 - a. **ENDORSE** the instruction provided to Vets UK to move to payment of simple interest at Bank Base Rate (BBR).
 - b. **NOTE** that there are additional restrictions on eligibility for payment of interest for Civilian personnel, although the calculations are consistent.
 - c. **AGREE** that exceptionally HM Treasury approval should be sought for payment of interest at compound rate on an individual case by case basis.

Timing

3. To be agreed out of committee to enable veteran payments on hold to be processed.

Background

4. Whilst reviewing cases referred for a decision on payment of interest, inconsistencies in approach were identified between AFPS and WPS. In researching the policy and enquiring about practices in operation for military and civilian personnel, the extent of the inconsistency was identified and is detailed in the following table:

	Reference Document	Rate of Interest	Compound or Simple Interest Paid
AFPS	General Interest Calculator. Origin unclear, undated	HMRC repayment supplement rate – for amounts owed within 6 years RPI + 2% - for amounts owed beyond 6 years	Simple – for amounts owed within 6 years Compound – for amounts owed beyond 6 years
WPS	Financial Redress for Maladministration Guide Origin – Issued by SPVA, dated April 2008. Based on original document issued by DWP.	Average Retail Shares and Deposits rate supplied by the Building Societies Commission.	Simple – when delay is less than 10 years Compound – when delay is more than 10 years
Military Personnel	No specific reference document. Guidelines	Bank of England Base Rate (BBR)	Simple Interest.

			Compound Interest is only paid if HM Treasury Authority is provided.
Service Complaints	HM Treasury	Bank of England Base Rate (BBR)	Simple Interest. Exceptional authority from HM Treasury for Compound Interest.
Civilian Personnel	MOD Statement of Civilian Personnel Policy – Pay details and Enquiries, Chapter 6	Bank of England Base Rate (BBR)	Simple Only paid if underpayment represents at least one week's basic pay and has been outstanding for more than a year

5. Managing Public Money provides the following guidance:

4.7.3. Where an organisation discovers an underpayment, the deficit should be made good as soon as is practicable and in full. If there has been a lapse in time, for example caused by legal action to establish the correct position, it may be appropriate to consider paying interest, depending on the nature of the commitment to the payee and taking into account the reputation of the organisation and value for money for the Exchequer as a whole.

A4.14.11. If a compensation payment includes an element because the person complaining has had to wait for their award, it should be calculated as simple interest. The interest rate to be applied should be appropriate to the circumstances and defensible against the facts. Some rates worth considering are the rate HMRC pays on tax repayments and the rate used in court settlements.

6. Personnel from Vets UK and Resources met with lawyers from the MOD Central Legal Services team on 23 June to discuss the current practices operating in Vets UK and to seek guidance on the legal aspects. Vets UK were advised by the lawyers to stop using their reference documents and it was agreed that an instruction would be issued by RES-2-DH advising the approach to adopt going forward. Following the meeting a number of points were clarified:
 - a. The rate HMRC pays on tax repayments is set at the Bank Base Rate
 - b. The rate used in court settlements (statutory rate) is currently 8%.
 - c. Members of the HMT Official Committee on Occupational Pensions are mostly aligned in the payment of simple interest at the BBR.

7. RES-2-DH issued an instruction on 22 Jul 16 advising Vets UK that: AFPS/WPS should apply a rate of 0.5% simple interest where the payment of interest is justified within the rules (pension/pay/compensation arrears and maladministration); and there was no justification in the current financial climate to pay interest at the statutory rate unless the Court awards it. This direction is intended to make AFPS and WPS compliant with the guidance in Managing Public Money and is supported by the lawyers.

8. A 3Cs item was submitted to the Operations Board in July regarding inconsistency of approach but no outcome was received. Vets UK are aware that the item was presented and have subsequently requested confirmation that the Operations Board is content with the instruction

that has been issued by RES-2-DH. In the meantime payments involving an interest element are being held up by Vets UK until Operations Board confirmation has been received.

9. If the Operations Board is content to endorse the change it would ensure consistency across DBS regarding the payment of simple interest at BBR. There would remain two variances:
 - a. additional restrictions on eligibility for payment of interest for Civilian personnel;
 - b. option of paying at compound interest rate for Military personnel and Service Complaints subject to HM Treasury approval.

10. I suspect there is no imperative to seek to change the eligibility guidelines for Civilian personnel but I believe the option of paying at compound interest rate might also be extended to all categories subject to HM Treasury approval on a case by case basis.

DBS Resources Deputy Head

Hi ,

I wrote a paper for the Operations Board which was issued out of committee on 2nd September for approval (attached). All responses to date agree the recommendation but 2 replies are outstanding:

Agreed by:

DBS-COO

DBS-Fin Hd

DBS-Hd Mil Pers

DBS Vets-Head

DBS Civ Pers-Pillar Head

DBS-CIO

No reply seen:

DBS-NSV-HEAD

DBS CPO-PeopleChange and DevHd.

Unless XXX disagrees, I think this is sufficient endorsement for you to proceed as laid down in the paper (which is the direction I gave previously).

Regards,

DBS Resources Deputy Head

Dear all,

Thank you for the helpful meeting this afternoon.

In relation to financial payments made to compensate for maladministration, *Managing Public Money* says (see A4.14.11):

“The interest to be applied should be appropriate to the circumstances and defensible against the facts. Some rates worth considering are the rate HMRC pays on tax repayments and the rate used in court settlements.”

I said I would look at the rate use in court settlements. By this I assume the guidance refers to the awards made by courts rather than out of court settlements.

Courts have a discretion to award simple interest on the damages in respect of which judgment is given or a payment made before judgment. Interest can be awarded for all or any part of the period between the date when the cause of action arose and the date of the judgment, or in the case of any sum paid before judgment, the date of the payment. E.g. see s.35A of the Senior Courts Act 1981 in relation to the power of the High Court.

Simple interest is paid at the prescribed rate, subject to the rules of court. The current prescribed rate of interest (known as the statutory rate) is 8% per annum: Judgments Act 1838 s 17. The statutory rate has not been altered since it was amended to 8% in 1993.

There are powers to award enhanced interest in limited circumstances, e.g. where a party has unnecessarily prolonged litigation by refusing a formal offer to settle but ultimately fails to do better than the offer by going to trial. This set out in [Part 36 of the Civil Procedure Rules](#).

(The Law Commission recommended legislative changes in 2004 to allow courts to award compound interest as a more accurate measure of the interest lost. However these recommendations haven't been adopted.)

Lawyer, Command, Discipline and Constitutional Law Team
MOD Central Legal Services, Government Legal Department

INTEREST FOR DELAY - OVERVIEW

1	Check that arrears are £100 or more.	Paras 137 & 144
2	Check that period of delay exceeds relevant indicator.	Paras 117 - 126
3	Check that maladministration has occurred.	Para 138
4	If maladministration has occurred is the delay arising out of the maladministration significant	Para 139
5	Apportion the arrears to the tax years in which they fell due.	Para 146, 147, Appendices B and D
6	If the delay in payment of benefit has been less than 10 years from either the date of claim or first contact, whichever is the later, calculate the compensation as simple interest.	Appendix B
7	If the delay in payment of benefit has been 10 years or more from either the date of claim or first contact, whichever is the later, calculate the compensation as compound interest.	Appendix D
8	If it is necessary to recover any overpayments from the compensation payment ensure recovery is completed before the payment is issued.	Paras 45 - 50, 148 - 152
9	Do not pay compensation if the result of the calculation is less than £10.	Para 144

You may find the examples in Appendices B and D helpful.

TABLE 2 FACTORS (Updated April 28)

1915/16	26.8322	1940/41	13.7944	1965/66	5.5026	1990/91	0.3311
1916/17	26.1481	1941/42	13.2900	1966/67	5.2501	1991/92	0.2946
1917/18	25.4808	1942/43	12.8028	1967/68	4.9965	1992/93	0.2244
1918/19	24.8299	1943/44	12.3322	1968/69	4.7121	1993/94	0.1745
1919/20	24.1950	1944/45	11.8777	1969/70	4.4370	1994/95	0.1280
1920/21	23.5757	1945/46	11.4387	1970/71	4.1752	1995/96	0.0839
1921/22	22.9717	1946/47	11.0146	1971/72	3.9288	1996/97	0.0460
1922/23	22.3825	1947/48	10.6050	1972/73	3.6888	1997/98	NIL
1923/24	21.8078	1948/49	10.2094	1973/74	3.3735		
1924/25	21.2472	1949/50	9.8272	1974/75	3.0631		
1925/26	20.7004	1950/51	9.4581	1975/76	2.7899		
1926/27	20.1670	1951/52	9.2270	1976/77	2.5351		
1927/28	19.6468	1952/53	8.9757	1977/78	2.3172		
1928/29	19.1393	1953/54	8.7305	1978/79	2.1017		
1929/30	18.6443	1954/55	8.4914	1979/80	1.8381		
1930/31	18.1615	1955/56	8.2320	1980/81	1.5696		
1931/32	17.6905	1956/57	7.9389	1981/82	1.3527		
1932/33	17.2311	1957/58	7.6342	1982/83	1.1823		
1933/34	16.7830	1958/59	7.3399	1983/84	1.0373		
1934/35	16.3459	1959/60	7.0704	1984/85	0.9019		
1935/36	15.9196	1960/61	6.7998	1985/86	0.7611		
1936/37	15.5038	1961/62	6.5245	1986/87	0.6597		
1937/38	15.0982	1962/63	6.2498	1987/88	0.5821		
1938/39	14.7025	1963/64	6.0027	1988/89	0.5075		
1939/40	14.3166	1964/65	5.7614	1989/90	0.4169		

CALCULATION OF INTEREST WHEN DELAY HAS LASTED 10 YEARS OR MORE

Example

£6,650 arrears due from 10 June 1986 to March 1991 were paid 31 October 1997.

1. Assign arrears to tax years:

1986/87	£1,220	(ie arrears from 10.06.86 - 05.04.87)
1987/88	£1,270	(ie arrears from 06.04.87 - 05.04.88 etc.)
1988/89	£1,340	
1989/90	£1,390	
1990/91	£1,430	(ie arrears from 06.04.90 - 09.03.91)
Total	£6,650	

2. Period of Indicator of delay runs from 10.06.86 to 09.06.87. Interest starts accruing from 10.06.87 (ie from the 1987/88 tax year).
3. To provide for the payment of interest on the first year arrears(1986/87) from the end of the Indicator of Delay, Appendix E is used(see Stage 1 below). Please note that where the Indicator of Delay ends within the first year of arrears there is no Stage 1 calculation.
4. Interest for the tax years from 1987/88 is calculated using the factors in Appendix F(see Stage 2).
5. Interest for the final, incomplete tax year is calculated from Appendix G(see Stage 3).

Method

Stage 1 (interest from start of period to end of that first tax year)

Arrears from 10.06.86 to 05.04.87 =	£1,220
Interest from 10.06.87 to 05.04.88 =	10 months
Appendix E factor for 1987/88 =	0.0491
Interest = £1,220 x 0.0491 x 10/12 = =	£49.92

See para 3 above for cases where the Indicator of Delay ends in the first year of arrears.

Appendix D (cont)

Stage 2 (interest from 06.04.88 to 05.04.97)

To ensure that interest of arrears for 1986/87 is compounded add the arrears and interest (from Stage 1) to the arrears for 1987/88 and multiply by the Appendix F factor for 1987/88. Continue as in the table below:

Tax year	Arrears	Appendix F factor	Interest
1987/88 (including Stage 1)	2539.92	0.5125	1301.71
1988/89	1340.00	0.4412	591.21
1989/90	1390.00	0.3546	492.89
1990/91	1430.00	0.2726	389.82
Total	6699.92	-	2775.63

Stage 3

As the arrears were paid after April 1997 it is necessary to calculate additional compensation for the number of months between April and the month the arrears were paid - ie October 1997. Add up all the arrears to the end of the last complete tax year before the arrears were paid, in this example 1990/91, and to the total add the amount of compensation arrived at in Stage 2.

Arrears to the end of tax year 1990/91 =	£6,650.00
Compensation =	£2,775.63
	£9,425.63

The grand total is then multiplied by the factor from the relevant column in Appendix G and the amount obtained is added to the compensation from Stages 1 & 2:

$$£9,425.63 \times 0.0220 \text{ (for October 1997 from Appendix G)} = £207.36$$

Total Compensation =	Stage 1	49.92
	Stage 2	2,775.63
	Stage 3	207.36
Compensation Payable		£3,032.91

1. Arrears for the first partial tax year are treated as payable at the end of that tax year, and the application of the Appendix E factor calculates interest for a forward period from the start of the arrears period to the end of that tax year only. The principle and interest then have to be compounded.
2. Arrears for subsequent complete tax years are treated as payable at the end of the tax year in which they were due and the application of the Appendix F factor for the tax years in which the arrears were due calculates compound interest for a forward period from the end of the tax year in which they were due.

TABLE 4
AGPMS

1915/16	0.0252	1940/41	0.0353	1965/66	0.0398	1990/91	0.0645
1916/17	0.0252	1941/42	0.0353	1966/67	0.0404	1991/92	0.0282
1917/18	0.0252	1942/43	0.0353	1967/68	0.0423	1992/93	0.0574
1918/19	0.0252	1943/44	0.0353	1968/69	0.0498	1993/94	0.0425
1919/20	0.0252	1944/45	0.0353	1969/70	0.0506	1994/95	0.0413
1920/21	0.0252	1945/46	0.0353	1970/71	0.0506	1995/96	0.0407
1921/22	0.0252	1946/47	0.0353	1971/82	0.0500	1996/97	0.0363
1922/23	0.0252	1947/48	0.0353	1972/93	0.0512	1997/98	0.0460
1923/24	0.0252	1948/49	0.0353	1973/74	0.0721		
1924/25	0.0252	1949/50	0.0353	1974/75	0.0764		
1925/26	0.0252	1950/51	0.0353	1975/76	0.0721		
1926/27	0.0252	1951/52	0.0226	1976/77	0.0721		
1927/28	0.0252	1952/53	0.0252	1977/78	0.0657		
1928/29	0.0252	1953/54	0.0252	1978/79	0.0695		
1929/30	0.0252	1954/55	0.0252	1979/80	0.0929		
1930/31	0.0252	1955/56	0.0281	1980/81	0.1045		
1931/32	0.0252	1956/57	0.0328	1981/82	0.0922		
1932/33	0.0252	1957/58	0.0353	1982/83	0.0781		
1933/34	0.0252	1958/59	0.0353	1983/84	0.0712		
1934/35	0.0252	1959/60	0.0334	1984/85	0.0712		
1935/36	0.0252	1960/61	0.0347	1985/86	0.0800		
1936/37	0.0252	1961/62	0.0366	1986/87	0.0611		
1937/38	0.0252	1962/63	0.0379	1987/88	0.0491		
1938/39	0.0252	1963/64	0.0353	1988/89	0.0495		
1939/40	0.0252	1964/65	0.0357	1989/90	0.0640		

1915/16	24.6751	1940/41	12.648	1965/66	4.9987	1990/91	0.228
1916/17	24.044	1941/42	12.1827	1966/67	4.7658	1991/92	0.1944
1917/18	23.4285	1942/43	11.7333	1967/68	4.5319	1992/93	0.1296
1918/19	22.8281	1943/44	11.2992	1968/69	4.2695	1993/94	0.0836
1919/20	22.2424	1944/45	10.8799	1969/70	4.0158	1994/95	0.0407
1920/21	21.6711	1945/46	10.4749	1970/71	3.7743	1995/96	NIL
1921/22	21.1139	1946/47	10.0837	1971/82	3.547		
1922/23	20.5704	1947/48	9.7058	1972/93	3.3256		
1923/24	20.0402	1948/49	9.3408	1973/74	3.0347		
1924/25	19.5231	1949/50	8.9883	1974/75	2.7484		
1925/26	19.0187	1950/51	8.6478	1975/76	2.4964		
1926/27	18.5267	1951/52	8.4346	1976/77	2.2613		
1927/28	18.0468	1952/53	8.2027	1977/78	2.0603		
1928/29	17.5787	1953/54	7.9765	1978/79	1.8615		
1929/30	17.1221	1954/55	7.7559	1979/80	1.6183		
1930/31	16.6767	1955/56	7.5166	1980/81	1.3706		
1931/32	16.2422	1956/57	7.2462	1981/82	1.1705		
1932/33	15.8184	1957/58	6.9651	1982/83	1.0133		
1933/34	15.405	1958/59	6.6936	1983/84	0.8795		
1934/35	15.0018	1959/60	6.445	1984/85	0.7546		
1935/36	14.6085	1960/61	6.1954	1985/86	0.6247		
1936/37	14.2249	1961/62	5.9414	1986/87	0.5312		
1937/38	13.8507	1962/63	5.688	1987/88	0.4596		
1938/39	13.4857	1963/64	5.46	1988/89	0.3908		
1939/40	13.1297	1964/65	5.2374	1989/90	0.3072		

TABLE 3 FACTORS

April	NIL	April	NIL
May	0.0036	May	0.0030
June	0.0072	June	0.0060
July	0.0108	July	0.0090
August	0.0144	August	0.0119
September	0.0179	September	0.0148
October	0.0212	October	0.0177
November	0.0245	November	0.0206
December	0.0278	December	0.0236
January	0.0308	January	0.0267
February	0.0338	February	0.0298
March	0.0368	March	0.0329

April	NIL	April	NIL
May	0.0032	May	0.0042
June	0.0067	June	0.0085
July	0.0103	July	0.0128
August	0.0141	August	0.0172
September	0.0180	September	
October	0.0220	October	
November	0.0260	November	
December	0.0300	December	
January	0.0341	January	
February	0.0382	February	
March	0.0424	March	

The general rule for the indicator of delay of 3 times the secondary clearance target up to a maximum of 12 months is not reasonable for certain aspects of War Pensions work where the secondary clearance time exceeds 12 months. Therefore where the secondary clearance time exceeds 12 months the proposed indicator of delay is the secondary clearance time plus 6 months to allow for normal processing:

Disablement First Claims	310	20
Disablement Subsequent Claims	310	20
Widows Claims	145	12
Assessment Appeals	550	31
Entitlement Appeals	550	31

Indicators Of Delay - War Pensions – From 2 April 2001

Type of case	Delay Indicator (Months)
Disablement Claims	15
Widows Claims	12
Entitlement and Assessment Appeals	24