

Ref: FOI2022/14322

19 December 2022

Dear [REDACTED]

Thank you for your letter of 24 November 2022 to the Ministry of Defence (MOD) requesting the following information and clarification of our response to FOI2022/12535:

- "2. What % of new PTSD claims since 2017, within 5 years of diagnosis, have been interim decisions?
3. Of those delayed claims in question 2 which have progressed long enough to reach the first review, what % are again interim decisions?
4. Of those delayed claims in question 3 which have progressed long enough to reach the second review, what % are again interim decisions?
5. What % of new mental health claims since 2017, within 5 years of diagnosis, have been interim decisions?
6. What % of new physical health claims since 2017, within 5 years of diagnosis, have been interim decisions?

Please provide all the relevant figures for the questions ie. Number of claims made, number of claims with interim decisions and number claims finalised immediately. Please break down finalised numbers as finalised immediately, finalised on first review, or finalised on second review.

I am happy to change the criteria of questions 2-6 however i'm not sure your following statement is correct, which would corrupt the data;

Diagnosis date is not relevant when determining an award under the compensation scheme so this information is not routinely collected electronically. It is possible that diagnosis date is recorded in an individual's claim file, but a manual review of all claim files would be required to determine this which would likely bring a request over the cost of compliance limit.

When a claim is set to a tariff for example for a PTSD injury- table 3, item 4, level 12 the wording is;

Mental disorder, which has caused, or is expected to cause functional limitation or restriction at 2 years, from which the claimant has made, or is expected to make, a substantial recovery within 5 years.

Now those years mentioned, 'restriction at 2 years' and 'substantial recovery within 5 years' are specifically talking about years from diagnosis (This is what I was advised by veterans UK, so please tell me if i'm wrong here). If someone was diagnosed over 5 years before submitting a PTSD claim they could not possibly be put on any award lower than level 10? This would completely skew the numbers of those receiving interim decisions where that was a possibility. What I want to know is of those claims that could (could due to eligibility within the time limits, not personal circumstances) be delayed with interim decisions, how many did? I have been told by a claims handler that "100% of PTSD claims that are within 5 years are delayed to the 5 year point" and the truth of that statement is what I'm trying to establish. Please could you clarify?"

I am treating your request as a request under the Freedom of Information Act (FOIA) 2000. I can confirm that all information in scope of your request is held.

To answer questions 2-6 I can confirm that between 1 April 2017 and 31 March 2022, **1,359 initial claims** were awarded an interim outcome under Table 3 – Mental Disorders of the Armed Forces Compensation Scheme where the claimed condition was Post-Traumatic Stress Disorder.

Of the 1,359 initial claims awarded an interim outcome, **540** claims received an interim outcome at first interim review. Of these, **29** claims received a further interim outcome at second interim review.

Between 1 April 2017 and 31 March 2022, 3,171 initial claims received an interim award under the AFCS. Of these:

- **1,641** were awarded under the Physical tariff tables
- **1,576** were awarded under the Mental tariff tables.

Please note, initial claims can be awarded for both physical and mental conditions under a single claim, therefore the total number of interim claims may not equal the sum of the physical and mental interim awards.

Under Section 16 of the FOI Act (Advice and Assistance) To clarify the statement regarding Diagnosis dates I can confirm that AFCS legislation provides that in relation to the duration of effects set out in the descriptors contained within table 3 of the tariff, the time frame is from the date the member first sought medical help for the disorder not from the date of diagnosis. This is contained within Article 5 of the AFCS Order 2011 which is available at this link <https://www.legislation.gov.uk/ukxi/2011/517/article/5>

Where claims are accepted, the AFCS aims to make full and final lump sum awards from the scheme tariff tables as soon as possible after the claim is made. The award aims to recognise the disabling functional effects of the disorder over the person's lifetime. This applies equally to physical and mental disorders and the assessment is made when clinical management is either complete or has progressed to allow a robust estimate of prognosis and outcome. The legislation in Article 5 of the AFCS Order 2011 provides useful definitions, as shown above. In terms of function the position is "permanent" where, following appropriate clinical management, the person is in a steady medical state and functional level is not expected to further improve. This is especially in relation to suitable civilian employment. Please note there is no reference to symptoms. Assessment and award depend on functional capacity, its severity and duration, not symptoms. Symptoms may well remain but function may be adequate. Evidence based effective treatment is the norm for PTSD, at least to a degree of improved function. No decision

on long term employability should therefore be made until an adequate trial of appropriate treatment is completed.

There is no internal working policy to delay the making of final awards and/or avoid recognising permanent functionally restricting or limiting disorders or injuries. The MOD receives advice from an expert independent specialist body, the Independent Medical Expert Group (IMEG). More information at this link:

<https://www.gov.uk/government/organisations/independent-medical-expert-group>.

The IMEG was set up to advise Minister for Defence People, Veterans and Service Families (MinDPV) on aspects of the AFCS. IMEG is made up of very senior UK medical consultants from specialities relevant to the armed forces. This includes mental health. IMEG provides evidence-based comment and recommendations on scientific and medical aspects of disorders including causal link to service, clinical management, course and prognosis which in turn, if accepted, inform scheme policy and, as required, law. The 2013 IMEG report included a section on mental health covering issues such as the meaning of “permanent”, use of interim awards and parity of esteem between physical and mental disorders, which informed present AFCS policy on mental health awards. IMEG reports are available on the gov.uk website at this link <https://www.gov.uk/government/collections/independent-medical-expert-group-publications>

The Fifth IMEG report, was published on 27 February 2020. In light of developments, new classifications and understanding of mental health it included a review of the 2013 IMEG advice. Further to this, the recently published 6th report details an audit of decisions on mental health claims which were considered in 2019/2020.

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



DBS (Secretariat)