



Ministry
of Defence

The Quinquennial Review of the Armed Forces Compensation Scheme 'One Year On' Report

9 April 2018



Contents

Foreword by Chief of Defence People (CDP)	4
Executive Summary	5
Topic 1 – Status of the Scheme	8
Topic 2 – Scope of the Scheme	9
Topic 3 – Emerging challenges	10
Topic 4 – Data collection	12
Topic 5 – Categories of awards	13
Topic 6 – Level of awards	17
Topic 7 – Interim awards	19
Topic 8 – Worsening	21
Topic 9 – Spanning	22
Topic 10 – Decision-making	23
Topic 11 – Appeals	23
Topic 12 – Communications: Education and Effectiveness	23
Topic 13 – Comparison with other schemes	25
Annex A – Armed Forces Compensation Scheme – lump sum award values	26

Foreword

By Chief of Defence People

The Armed Forces Compensation Scheme (AFCS) was introduced in April 2005, replacing the War Pensions Scheme (WPS), which had been in force since 1917, as the Government's continuing commitment to provide no-fault compensation for members of the Armed Forces. It provides compensation to Service personnel, veterans and dependents for injury, illness or death due to or worsened by service. The AFCS aims to reflect more appropriately the changing shape of the Armed Forces and military operations, modern thinking on disability and the moral obligation to ensure Service personnel are appropriately compensated.

In 2009, the Scheme underwent a fundamental review, led by Admiral the Lord Boyce. A number of recommendations were made, accepted by government and implemented. It was concluded that the Scheme was fundamentally sound and should not require future major amendment. The present Quinquennial Review (QQR) of the AFCS took place in 2016, with the Report published in February 2017. This confirmed that the Scheme remained on track but proposed a few enhancements. The key recommended changes were of two types, those with financial implications and the larger group, essentially matters of clarification of policy and more effective communication.

This "One Year On" report discusses the response to the recommendations and progress on implementation over the last year. Many of the recommendations have been addressed as part of normal business. As the Scheme is for personal injury, scientific and medical issues are central and where appropriate, referred for Independent Medical Expert Group (IMEG) comment. These have been published in the Fourth IMEG report, dated December 2017, on www.gov.uk. This forms part of the evidence informing the Government response to the recommendations and related policy and implementation.

I would like to thank all those that have been involved in the Review in particular the members of IMEG, and the Central Advisory Committee on Compensation (CAC) for their constructive contribution, and officials of Defence and other government departments. My thanks also to other internal and external stakeholders for their comments and lastly to the QQR team, whose conclusions and recommendations found that the Scheme remained fit for purpose with the flexibility to reflect changing circumstances.

It is the intent to continue to review the policy aspects of the Scheme on a quinquennial basis.

Lieutenant General Richard Nugee
Chief of Defence People



Executive Summary

The purpose of the Quinquennial Review (QQR) was to ensure the Armed Forces Compensation Scheme (AFCS) remains fit for purpose where “fit for purpose” is defined as providing “no-fault” compensation at realistic sustainable levels. The QQR team explored relevant issues with internal and external stakeholders and their report identified and discussed 13 topics, setting out findings and recommendations.

The key recommendations with financial implications were as follows:

- AFCS lump sum awards, tariffs 2 to 15 be uplifted by the Consumer Price Index (CPI) measure of inflation to maintain their value - approved and will be implemented on 9 April 2018.
- An uplift of tariff 1 lump sum (highest tariff) from £570,000 to £650,000, which was last reviewed by Lord Boyce in 2010 - approved and will be implemented on 9 April 2018.
- Increase in the cap, i.e. the total lump sum payment awarded for multiple injuries, from £570,000 to £650,000, which automatically follows the top tier increase to £650,000 - approved and will be implemented on 9 April 2018.
- Review of the maximum tariff level award for mental health conditions upwards (potentially from level 6 (£140,000) to level 4 (£290,000) - approved in principle and policy work continues for implementation from April 2019 and;
- Introduction of a new Supplementary Exceptional Award, of £325,000, for those most seriously injured who experience the highest degree of dependency. IMEG have urged caution – more policy work is required before a decision can be made.

Other topics/issues recommended for clarification were:

■ Topic 1 – Status of the Scheme

The Review raised the question of whether claims and award rates were equitable across claimant groups i.e. based on gender, ethnicity etc. and requested IMEG comment. They also recommended that any new AFCS policies should be equality-proofed. This has been agreed in accordance with the Equality Act 2010 and departmental policy.

■ Topic 2 – Scope of the Scheme

The Review recommended better communication of the Scheme’s scope i.e. what the scheme covers. The legislation and policy document Joint Service Publication (JSP) 765 are reviewed on an annual basis. Action to improve accessibility and clarification of scheme scope has been undertaken for the 2018 editions.

■ Topic 3 – Emerging Challenges

A number of emerging challenges potentially impacting scheme policy and decision-making were raised in the Review. These include digitisation and its potential to improve case handling, the increasing rates of claims and awards for Post Traumatic Stress Disorder (PTSD) and Non-Freezing Cold Injury (NFCI) since 2009 and, how AFCS deals with “new disorders” notably deployment acquired infections such as Ebola and Zika. These issues have been considered and taken forward as appropriate. Details are in the main body of this report.

■ **Topic 4 – Data Collection**

The QQR team found some stakeholder criticism of data quality and availability in the Scheme. To support audit of scheme policy and decision-making e.g. detect trends in disorders claimed, claims and appeal rates and outcomes, quality data are required. Work is progressing by Policy, DBS and Defence Statistics to address the adequacy of information and understanding by operational staff of the need for its rigorous collection. Defence Statistics publish data on an annual basis on www.gov.uk. This includes clearance rates, trends in numbers of claims made, conditions claimed, outcome and appeal rates for the AFCS.

■ **Topic 5 – Categories of Awards**

Four specific categories of awards were raised for review: mental health, musculoskeletal disorders, non-freezing cold injuries and brain injuries. Most issues concerned clarification of policy/legislation. As medical issues these were referred for IMEG comment which is set out in the December 2017 Fourth Report.¹ The most significant review recommendation was the proposed new higher level award for the most severe category of mental health disorder. This is currently under policy consideration and if accepted by Minister will be effective from April 2019.

■ **Topic 6 – Level of Awards**

Lump sum awards in the Scheme have not been reviewed since 2010. The QQR team were clear that lump sum awards should retain their value over time and made several recommendations on award levels.

- Minister has accepted that all lump sum awards should be increased.
- Tariffs 2 to 15 will be uplifted by the Consumer Price Index (CPI) measure of inflation, published in September 2017, from 9 April 2018.

- The highest tariff 1 lump sum award will increase from £570,000 to £650,000, with a corresponding increase in the cap, i.e. the total lump sum for multiple injuries, from £570,000 to £650,000 also from 9 April 2018.

■ **Topic 7 – Interim Awards**

Stakeholders raised difficulty with understanding the concept of interim awards, and their fear of financial uncertainty and so disadvantage in relation to mortgages etc. The intention of a full and final scheme like AFCS is that as early as possible after claim, an award will be made which takes into account the likely progress and functional limitation associated with the treated accepted disorder over the person's life-time. Where entitlement to compensation is established but the person is not in steady state or prognosis is unknown, an interim award may be made.

The concept of an interim award, paid when a final award is not appropriate and effectively a payment on account, was strongly supported by the Lord Boyce Review. This is particularly where injuries are complex or multiple with adequate best practice treatment taking up to three or four years to complete. It is however quite a difficult concept with risk of misunderstanding. The QQR team identified two main issues. The first concern was the perceived financial uncertainty of interim awards and lack of appreciation that at finalisation the interim award in payment will either be maintained or increased but never reduced. The QQR team also recommended introduction of an automatic right to review an interim award when approaching discharge date if more than six months from interim award notification.

Since the QQR report, the matter has been revisited in depth with IMEG first considering the medical aspects and confirming that the logic and utility remained sound. IMEG rejected the QQR automatic

¹ <https://www.gov.uk/government/publications/imeg-fourth-report-on-medical-and-scientific-aspects-of-the-armed-forces-compensation-scheme>

service termination review but agreed that where the terms of the initial award allowed, existing scheme review provisions could permit claim revisiting. Discussion on the financial aspects of interim awards and to generally increase awareness of the Scheme's financial provisions is taking place with the Financial Services Steering Group (FSSG).²

■ **Topic 8 – Worsening and Topic 9 – Spanning**

These two particular aspects of decision-making were raised in the QQR report. It is only now, more than ten years after AFCS introduction, that significant numbers of cases where worsening by AFCS service or where a person has served both before 6 April 2005 when the War Pension Scheme (WPS) applied and after that date covered by the AFCS, so called “spanning cases” are arising. Reports on the medical and scientific aspects of these topics form part of the Fourth IMEG report. IMEG concluded that the Scheme's worsening rules are reasonable medically and set out some principles for decision-making in spanning cases. They were clear that spanning cases can be challenging and recommended they be added to the list of case types where medical advice is mandatory. Work is now progressing on adjudication guidance for lay and medical decision-making in both worsening and spanning cases.

■ **Topics 10 to 12:**

Topic 10 – Decision-making

Topic 11 – Appeals

Topic 12 – Communications

Stakeholder concern under these topics was less about expansion of descriptors or enhancing awards than about the ongoing general need for better communication of the Scheme rules, policy and practical aspects of decision-making. Some specific categories of case descriptors and tariffs including

musculoskeletal and mental health awards were cited as needing clarification. On Topic 11 despite guidance on the appeals process being readily available on www.gov.uk there was felt to be room for more effective communication of the decisions and appeals process, perhaps in line with DWP claimant guidance.

In response to the underlying concerns about communication and clarity on the Scheme, the AFCS Communications Working Group (CWG)³ has been reformed to look at accessibility, customer understanding and the overall customer experience. In depth comment of progress on this area is included in the main body of this report.

■ **Topic 13 – Comparison with Other Schemes**

The QQR team introduced this topic as relevant to the question of AFCS fitness for purpose. They looked first at other UK no fault schemes and at the recently revised Canadian Armed Forces' Scheme. While direct comparison is difficult because of different contexts and associated other non-pecuniary benefits e.g. free health care, the QQR team identified no need to amend the AFCS. They noted, as in the Lord Boyce Review, that one repeated source of misunderstanding on the Scheme's generosity was failure to recognise that AFCS awards potentially comprise of two elements, both a lump sum and for the more seriously injured, a tax free reduced earnings allowance, paid from service termination for life, the Guaranteed Income Payment (GIP). They recommended that AFCS awards are always publicised with emphasis on the Scheme's two components and its principle of focus on those most disabled due to service.

² A forum chaired by the Armed Forces Covenant Team with representatives from the Financial Services industry.

³ Monitors and evaluates the communications employed, as well as providing centralised direction.

Topic 1

Status of the Scheme

Background

The QQR team concluded that the Scheme had evolved over the years, showing the flexibility to adapt to changing circumstances but to maintain that position they proposed some improvements.

QQR recommendation

The QQR team recommended the Scheme was “equality-proofed”, ensuring that no particular group e.g. based on gender or ethnicity found itself disadvantaged by the Scheme’s provisions.

Response and progress on implementation of recommendation

The importance of the recommendation is recognised. Any new policies implemented within the Scheme will, as an integral part of the process, be equality-proofed in accordance with the Equality Act 2010 and departmental policy.

Topic 2

Scope of the Scheme

Background

The QQR concluded that the scope of the Scheme was fundamental to its continuing fitness for purpose. The QQR team found varying degrees of understanding as to scheme scope and recommended clarification as to what was compensated and what was not, as well as the meaning of some of the terms in legislation and communications material. They recognised particular difficulties in ensuring Reservists were well informed, especially important given the future Armed Forces model.

QQR recommendations

The QQR team recommended that MOD should set out as appropriate in legislation and the Joint Service Publication (JSP 765),⁴ which provides policy guidance on the Scheme, what the Scheme compensates for and what is excluded.

To support more effective communication amongst Reservists MOD should consider enlisting the help of the Reservists' Champion.

Response and progress on implementation of recommendations

The AFCS legislation and JSP 765, (which provides policy guidance on the Scheme), are reviewed on an annual basis to ensure they accurately reflect the scope of the Scheme. This exercise has been completed for 2017/18.

The recommendation on enlisting the help of the Reservists' Champion was carefully considered, however, in line with the Whole Force concept, and to emphasise equal treatment of Regulars and Reservists, it was decided not to take this forward.

⁴ <https://www.gov.uk/government/publications/joint-service-publication-jsp-765-the-armed-forces-compensation-scheme>

Topic 3

Emerging Challenges

Background

The QQR team identified a number of new challenges, since the last review. They judged that the Scheme had reacted to these with flexibility and noted that it was essential that this flexibility be maintained in the future. Among these were a) digitisation and its potential impact on claims processing, b) “new illnesses” such as Ebola and Zika, c) increased rates of claims and awards for Non-Freezing Cold Injury (NFCI) and mental health disorders and, d) the changing Armed Forces demographics, an increase in women Service personnel with more serving in front-line combat, and a higher proportion of Reservists.

QQR recommendations

- The QQR team recommended that MOD should investigate the further capacity of information technology to assist with improved customer service.
- IMEG should consider gender differences in musculoskeletal injury, risk, type claimed and appropriate treatment.
- MOD should investigate the perception that female claimants have a lower rate of award than male claimants.
- IMEG should evaluate any impact on the Scheme of Zika and Ebola.
- The AFCS legislation should clarify/list infections covered by the Scheme and those which are not.

Response and progress on implementation of recommendations

DBS Veterans UK have used digital channels such as Facebook and Twitter for over five years. They are an integral part of DBS Veterans UK communications strategy with a current reach of approximately 1.1M. The Communications Work Programme is currently looking at innovative ways of educating and informing AFCS customers and influencing user behaviour. The Programme will also be looking at how end-to-end services can be improved in line with the Government Digital Service’s ‘Government as a Platform’ Strategy 2017-2020, to improve the customer experience. IMEG comment is included in their Fourth Report (www.gov.uk) with the main findings.

Gender differences in AFCS awards

Based on data supplied by Defence Statistics, IMEG found no anomalies between male and female awards in the Scheme. However, as make-up of the Armed Forces changes over the next few years, IMEG will routinely monitor final award outcomes for AFCS claims by women, keep in touch with emerging research, UK military personnel policy practice and training, and review both the general and military literature, on issues relevant to female musculoskeletal physiology and injury, both short and long term.

Infections including Zika virus

Having considered the wide range of infections potentially due to AFCS service, IMEG concluded that the AFCS legislation for physical disorders⁵ can accommodate any service acquired infection related disorder, the majority of which will be treatable to cure within a few weeks. Owing to the potential length of a list and the likely need for frequent revision, IMEG do not recommend a specific list of the infections. If a serving member of UK Armed Forces acquires Zika due to AFCS service, an award might follow dependent on the severity and duration of disabling effects or complications.

IMEG conclusions have been considered from a policy perspective and agreed. The recommendation to clarify the meaning of terms such as “non-temperate” and “outbreak” will be included in the April 2018 revision of legislation and policy guidance. It is also noted that in general for “new disorders” the legislation includes a provision to make a temporary award (Article 26 AFCS 2011 Order) ahead of introduction of a new tariff descriptor. This is where a claim has merit but no suitable descriptor is included in the contemporary tariff.

⁵ Schedule 3 (The Tariff and Supplementary Awards), Part 1, Table 4 (Physical disorders – illnesses and infectious diseases) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.

Topic 4

Data Collection

Background

Having robust data on the AFCS provides evidence on AFCS fitness for purpose, decision-making processes, programme cost and to test hypotheses and evaluate outcomes. Statistical information was an important tool used by the QQR team, e.g. in considering claims and appeals rates and outcomes.

QQR recommendation

The QQR recommended that MOD including through guidance and training should continue to reinforce to operational staff the importance of routine accurate data collection and recording.

Response and progress on implementation of recommendation

Accurate data is critical in measuring the claims made and quality of scheme processes. Annual data on AFCS is published on www.gov.uk.⁶ New work is being taken forward as part of the Defence Statistics' 'Methodology Review', and DBS Veterans UK modernisation programme, to ensure that staff understand the importance of routine robust data collection for evaluation of the Scheme's administrative processes, the customer experience and programme cost. This includes clearance rates, trends in numbers of claims made, conditions claimed, outcome and appeal rates.

⁶ <https://www.gov.uk/government/collections/armed-forces-compensation-scheme-statistics-index>

Topic 5

Categories of Awards

Background

Four very specific medical issues, mental health, musculoskeletal injuries, NFCI and brain injuries were examined, all of which had assumed a higher level of importance in the minds of stakeholders since the Lord Boyce Review.

QQR recommendations

- Mental health claims and awards have increased year on year since the Lord Boyce Review. Mental health symptoms being subjective, problems may be difficult to diagnose and symptoms highly variable over time. The Lord Boyce Review tasked the IMEG with carrying out an in-depth review of mental health disorders. Following literature scrutiny and expert discussion their findings and recommendations are included in the 2011 and 2013 IMEG reports.⁷ One outcome of this IMEG advice was an increase in the maximum tariff for mental health disorders from tariff 8 to tariff 6 (£140,000). The QQR team recommended further consideration of this, as their investigations suggested that some severe mental health disorders may be just as disabling as serious physical injury, and a higher maximum tariff for these disorders should be considered.

- Musculoskeletal disorders are the most common cause of military medical downgrading, medical discharge and AFCS claims. Most commonly, claims are for back and knee problems often related to sport and adventure activities rather than combat or operations.

In general, in the Scheme as well as functional impact, award levels are influenced by duration of disabling effects, with lower awards for conditions which are less severe and with shorter functional limitation.

The QQR team found that there was a range of tariff awards, often quite low, particularly for back problems where effects were prolonged and a substantial symptomatic and functional recovery did not occur. They recommended their review.

- NFCI has been recorded in UK soldiers since the Napoleonic wars. Following the introduction of the AFCS, there has been a rise in the number of NFCI claims and stakeholders also raised the issue of seasonal fluctuation in symptoms. An independent Task Force of academics and military experts was set up in 2011 to review current understanding of NFCI. This confirmed significant gaps in our understanding and a lack of research evidence on many aspects including diagnosis, pathogenesis, treatment and long term effects. New guidance on protection and preventive action and revised military clinical management protocols have been developed, and hopefully will help reduce the incidence of cases and claims.

The QQR team recommended further study into the long-term impact of NFCI.

⁷ <https://www.gov.uk/government/collections/independent-medical-expert-group-publications>

- Brain injuries occur in combat or operational situations as well as in road traffic accidents, assaults, adventure training and other similar circumstances.

As for musculoskeletal injuries, the QQR team noted variation in tariff awards for apparently similar cases and recommended clarification of the descriptors and associated tariff levels for brain injury.

Other QQR recommendations under Topic 5 Categories of Award

- More guidance should be provided on the term “**permanent**”, regarding Article 5 of the legislation, as having a permanent condition attracts a higher award and also a GIP, which is granted for permanent conditions. While Article 5 applies to all claims the Review particularly focussed on mental health conditions.
- The MOD should look into the reasons why current Defence Medical Services (DMS) and NHS practice may make it difficult for diagnoses of discrete mental health disorders by a consultant-level psychiatrist or clinical psychologist. IMEG should be asked to review that requirement. MOD should consider increasing the highest level mental health awards for the most severe disorders.

Response and progress on implementation of recommendations

Given their nature Topic 5 recommendations were referred to IMEG. Their comments form part of their Fourth Report. The main findings were as follows:

Mental Health

On review of the evidence IMEG remain content that contemporary evidence supported the recommendations and conclusions of the 2011 and 2013 IMEG reports, on the legislation⁸ and award values for mental health disorders, particularly the highest appropriate award.

In light of new evidence, clinical insights from literature and discussion with senior clinical colleagues working in the field of traumatic psychological injury, IMEG recommends that Table 3 mental disorders should include an award at level 4 attracting a 100% GIP. As stressed by clinical colleagues and the literature, this level of disability will apply only to disorders producing the most severe functional compromise and award will be rare. This type of case and level of associated impairment, following adequate courses of best practice treatment, including highly specialist tertiary interventions, directly due to mental health disorder will be incompatible with paid employment for the foreseeable future. As part of the 2018/19 Forward Work Programme IMEG will consider any impact on the issue of the Diagnostic and Statistical Manual (DSM (2013)) and International Classification of Diseases (ICD 11) (due to be published in 2018), approaches to PTSD.

⁸ Schedule 3 (The Tariff and Supplementary Awards), Part 1, Table 3 (Mental disorders) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.

The IMEG recommendation of the increase to the maximum tariff level award for mental health conditions (potentially rising from level 6 (£140,000) to level 4 (£290,000)), is currently being considered from a policy perspective, and if implemented will be effective from April 2019.

IMEG's 2013 report made other recommendations on mental health claims diagnosis and assessment including consideration of establishing a national panel of experts, routine inclusion in clinician reports of detailed information on clinical management, treatment and perhaps the use of a limited battery of psychometric tests, particularly to judge progress over time. IMEG have suggested that these suggestions are worth revisiting and this will also be considered in their 2018/9 Forward Work Programme.

In the meantime, for robustness IMEG have concluded that diagnosis of mental health disorders in the Scheme should continue to be made by a psychiatrist or clinical psychologist at consultant level. This has been accepted from a policy perspective.

Musculoskeletal Disorders

IMEG found that there was no evidence in the absence of preceding traumatic injury that work in the Armed Forces generally causes increased risk of degenerative change in the vertebral column. IMEG concluded that a decision on these conditions including non-specific back and knee pain would depend critically on the case facts, particularly factors such as type and duration of service. Royal Marine, Parachute Regiment, Special Military Units or combat service were likely to produce quite different physical loading stressors compared with peace-time storeman duties in the Logistics Corps.

IMEG reviewed the legislation and awards for musculoskeletal disorders⁹ in light of the current understanding of causation, progress and associated disabling effects and remain content that the present approach to back disorders is evidenced and maintains award horizontal and vertical equity. There is no evidence of gender imbalance.

MSK disorders is a large topic and it is noted in IMEG's Fourth Report that rigorous approaches to further topics including nociceptive and neuropathic pain and pain syndromes will be more fully considered in Part 2 of IMEG's Musculoskeletal Disorder Review. This will be published in the Fifth report in approximately 18 months time.

Non-Freezing Cold Injury (NFCI)

The NFCI descriptors were revised by IMEG in their Third Report and incorporated into legislation in April 2016. IMEG concluded in their Fourth Report that the current NFCI descriptors and awards are reasonable reflecting the limits of contemporary evidence and appropriate considering seasonal and other variation in disabling effects. IMEG will however continue to monitor the literature regarding any future published longitudinal research.

⁹ Schedule 3 (The Tariff and Supplementary Awards), Part 1, Table 9 (Musculoskeletal disorders) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.

Brain Injury

IMEG did not agree that there was confusion or possible overlap between the brain injury descriptors cited as causing confusion. However, they proposed some clarification of the descriptors to put beyond doubt the relative severity of the two injuries. These amended descriptors have been accepted and are being incorporated into legislation¹⁰ with effect from April 2018.

Permanency

IMEG found that Article 5 of the AFCS legislation, as presently worded, applies across descriptor categories and clearly sets out the meaning of 'permanent'. They found the concept medically valid and in line with contemporary best practice clinical management and approaches to disability.

IMEG's findings have been accepted from a policy perspective and where necessary IMEG will assist their implementation including as required contributing to adjudication guidance.

¹⁰ Schedule 3 (The Tariff and Supplementary Awards), Part 1, Table 6 (Neurological disorders, including spinal, head or brain injuries) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.

Topic 6

Level of Awards

Background

A recurring theme was that lump sum awards should retain their real value over time and that there should be some routine uplift mechanism. The QQR team noted the value and depreciation over time of the lump sums, e.g. any award was worth 87% of what it was six years ago.

QQR recommendations

The QQR team recommended that in future lump sum awards should be uprated annually by the Consumer Price Index (CPI).

Another recommendation was uplifting the top tariff level 1, last reviewed in 2010, but not uplifted since 2008. The QQR team formed the view, based on inflation statistics, that the level should be raised from £570,000 to £650,000 for new claimants only – not retrospective.

From this an increase to the cap (for awards for multiple injuries) from £570,000 to £650,000 would follow.

The QQR team recommended a Supplementary Exceptional Award, paid in addition to lump sum and GIP. Its suggested value would be £325,000 (uncapped, meaning that this award would not be counted towards the “cap” or upper limit for multiple injuries). Although not intended to make any contribution to care costs but rather recognise reduced quality and enjoyment of life this supplement would be payable only to those with the highest degree of dependency, and requiring 24-hour professional care.

Response and implementation of recommendations

The QQR recommendations to increase lump sum awards and the cumulative cap were considered in consultation with internal and external stakeholders. Stakeholders included HM Treasury (HMT), CAC etc. The proposal to uprate lump sum awards annually by CPI was not accepted as it would be a departure from wider government policy. However, an alternative approach has been taken forward that will allow lump sum awards to be uprated on a periodic basis, which is within AFCS policy, and on this occasion by CPI.

Ministerial agreement has been given to amend the AFCS legislation from 9 April 2018 to:

- Uplift of the top tariff level 1 award from £570,000 to £650,000 (last reviewed by Lord Boyce in 2010 but not uplifted since 2008) to realign the balance between the top tier award and level 2 award.
- Increase the cap on the cumulative lump sum for multiple awards from £570,000 to £650,000 which automatically follows if the top tier is raised to £650,000 and;

- Uprate the other lump sum tariff awards for inflation in line with CPI, announced in the Autumn Statement in November 2017.

Work from a policy perspective continues on the concept of a Supplementary Exceptional Award informed by discussion with other parts of MOD, other government departments, scheme members and their representatives and by IMEG comment on the medical and scientific aspects included in their Fourth Report. In summary while IMEG recognised the intention behind the award was laudable, they urged careful thought, with the decision to have such a provision publicly funded and robust defensible criteria for its award likely to be challenging and controversial.

Topic 7

Interim Awards

Background

The intention of a “full and final scheme” is that as early as possible after the claim, an award will be made which takes into account the likely progress and functional limitation associated with the treated accepted disorder over the person’s lifetime. In contrast, interim awards are for claimants whose entitlement to compensation is established but where the diagnosis and/or prognosis of their injury or illness is unclear. Interim awards are based on DBS Veterans UK medical advice that the claimant is not yet in a steady state, and so a full and final award based on the lifetime effect of their injury cannot be made.

Interim awards, therefore, are designed for cases where a service causal link for an injury or illness is clear, but on-going effects are not. Introduced during the recent conflicts where treatment of survivable combat related injuries might take three or four years to reach optimum state, they provide claimants with a payment on account pending their full and final award. Awards are reviewed after two years, and then as necessary at four years, when they will be made final. Although strongly supported by the Lord Boyce Review the concept is difficult and some claimants and their representatives perceive that their award can lead to financial uncertainty especially in relation to mortgages etc. at service termination.

QQR recommendations

The QQR team recommended that there should be an automatic right to review an Interim Award when approaching discharge date, if more than six months from the date of the interim award.

They also proposed that MOD should liaise with the Financial Services Steering Group (FSSG) to:

- 1) increase general knowledge of financial aspects of the AFCS, taking into account the significant number of recipients paid large lump sum payments, and a GIP.
- 2) inform and improve claimant understanding of interim awards and perceptions regarding financial insecurity.

Response and implementation of recommendations

IMEG have considered the medical aspects of interim awards and found the logic and utility sound. IMEG noted that, despite the Scheme time limits, a significant proportion of claims leading to an interim award were made soon after the injury or disorder, so that an adequate course of best-practice treatment could not have been delivered. IMEG would be happy as appropriate to input to any briefing or guidance to the charities and welfare staff who advise claimants on practical aspects of making claims including timings and will continue to monitor rates and type of interim awards.

MOD is educating Banks and Building Societies through the FSSG to emphasise that on review and finalisation, interim awards are never reduced and so can be used to secure a mortgage. DBS Veterans UK are also reviewing the language in their communications as part of a more general review of correspondence standards. This subject was on the agenda at the FSSG meeting held on 1 February 2018, at which a successful briefing was given by a representative from the policy area and agreement reached that MOD and FSSG will work together on the issues.

Topic 8

Worsening

Background

Situations where worsening might apply are: where a pre-existing pre-service disorder is present in service, or where an injury or disorder has onset in service but is due on balance of probabilities to an identifiable non-service-related accident or event. To accept worsening, service has to be the predominant cause. Awards for worsening are paid at the same level as injury and disorder due to service.

QQR recommendation

MOD should revisit the worsening rules, practical aspects of decision-making and their effective accessible communication.

Response and implementation of recommendation

For any new decision-making guidance on worsening the medical evidence must be robust and so the IMEG perspective is key. Their Fourth Report published in December 2017 includes a section on worsening.

IMEG found that the present approach to worsening as set out in Article 9 of the legislation is reasonable medically, and supportive of consistent equitable decisions. IMEG considered the issues thoroughly, providing in its comment some worked examples and concluding that decision-making in worsening cases was potentially challenging, so that worsening cases should be added to the list of case types where medical advice was mandatory. IMEG will monitor outcome claims rates and disorder types of worsening cases from 2019/20. Work is now progressing on communications material, lay and medical adjudication guidance and training.

Topic 9

Spanning

Background

The term “spanning case” applies where Service personnel have served both before and after 6 April 2005, the date the AFCS first came into effect. In these cases, the cause of injury or illness (including late-onset illness) might be attributable to service either before or after that date and so claims may be appropriate under either scheme. A key aim is to avoid double compensation, i.e. making awards for the same disorder under both the WPS and the AFCS.

The preference where possible, is a single award under one scheme, with appeal rights also under one scheme only. While awards under both schemes are based on a causal link to service, and both schemes are evidence-based individual jurisdictions, there are innate differences between the two. These include the standard of proof, ability to claim while serving or only at or after service termination, time limits and opportunity to request review. The WPS is medically certified with much scope for subjective judgment, while the AFCS is medically advised.

QQR recommendation

MOD should review the legislation as applicable to spanning cases and devise an approach to decision-making which is lawful, medically sound, consistent and transparent.

Response and implementation of recommendation

As with worsening, to ensure approaches to adjudication of spanning cases are medically reasonable, IMEG reviewed spanning in their recent Fourth Report.

IMEG considered the issues thoroughly providing in its comment some worked examples and concluding that decision-making in spanning cases was potentially challenging so that spanning cases should be added to the list of case types where medical advice is mandatory. IMEG will monitor outcome claims rates and disorder types of spanning cases from 2019/20.

IMEG’s views and proposed approach to spanning cases were accepted from a policy perspective and work is progressing on communications material, lay and medical guidance and training.

Topic 10 Decision-making

Topic 11 Appeals

Topic 12 Communications

Background

These three topics are closely related and so have been considered together. Stakeholder concern was less about expansion of descriptors or enhancing awards than on the ongoing general need for better communication and understanding of the legislation, policy and practical aspects of decision-making and appeals. Clarification of musculoskeletal and mental health claims and awards was especially required. On Topic 11 Appeals, despite guidance being readily available on the www.gov.uk website, the QQR team considered there was room for better discussion of the decision and appeal process, perhaps in line with DWP claimant guidance.

Beyond the financial recommendations, a priority issue of this QQR was the urgent need for more effective communications. Broadly similar limitations were identified as in the Lord Boyce Review. In the period since 2009 significant effort and resources have been invested by MOD, DBS and the charities working separately and together along with claimants, scheme members and their representatives to address the matter. Good working relationships have been established.

The challenge of sustained effective communication of a personal injury scheme, like the small print of insurance policies, remains considerable, having been an issue since the start of the Scheme. For AFCS, in contrast to war pensions, claims can be made in service and to date most claims have been made while claimants are still serving. Work to establish effective in service communications on the Scheme provisions and processes was established at scheme introduction. The Lord Boyce Review identified inadequacies in this and since 2010 a new network of in service information providers, formats, and sources have developed aimed at both Regulars and Reservists

Stakeholder feedback to the QQR team confirmed that some progress had been made since 2010, but more work is needed.

QQR recommendations

- The QQR team found that, “accuracy”, “consistency”, “reliability”, “accountability” and “timeliness” are key principles of effective communication, but in many cases, remain an aspiration rather than actuality. Monitoring is required to ensure effective communication is maintained. The current communication channels include JSP 765, Infolaw (the lawyers’ information exchange website), briefs to Service personnel and the web pages for DBS Veterans UK at www.gov.uk/veterans-uk.
- The QQR team recommended following the Plain English Campaign guidelines or the equivalent when undertaking communications.
- In addition, the QQR team recommended that the Communications Working Group, disbanded after delivering its core task of publicising the Lord Boyce Review, should be re-activated.
- The QQR team urged attention also to veterans and recommended that those leaving service should receive an AFCS Guide. The Lord Boyce Review, stakeholders and the QQR team recommended focus on the value of awards and its two components.

- The QQR also recommended a finance course to be undertaken by awardees in receipt of substantial lump sums. Chains of command to direct individuals to HR staff who can provide details of Services Insurance and Investment Advisory Panel (SIAP) or other organisations providing wealth management advice.
- A new more customer facing accessible approach was needed to notification letters and correspondence in general. This work should be informed by feedback from a wide body of potential recipients.

Response to and progress on implementation of recommendations

The AFCS Communications Working Group has been reformed, chaired by Policy, to look in detail at the AFCS communications processes and the QQR recommendations. The main findings of the group were:

- I. All AFCS information and guidance is held on www.gov.uk. The relevant pages are receiving 8-9k views per month with higher unique page hits and longer than average time spent on these pages than on any other MOD information service. All content published on www.gov.uk goes through a '2nd pair of eyes' process to ensure Plain English and accessibility guidelines are adhered to. All DBS communications staff are professionals accredited by the Government Communication Service (GCS) and are members of the Chartered Institute of Public Relations (MCIPR).
- II. The DBS Demand Management Working Group (DMWG)¹¹ is currently looking at new ways to educate and inform customers using on-line guidance. There is already information available on the GIP on www.gov.uk with clear examples.
- III. On divisional courses/briefings, Service personnel are given a credit card sized information product they can refer to if they feel they need to claim for AFCS in future. Policy have engaged with Pay Colonel staff regarding consistent messaging across all services.
- IV. A page on the AFCS is included in the Service Leavers Guide. Medical discharge letters make clear what happens in relation to no fault compensation and when and how claims need to be made.
- V. Policy have engaged with Pay Colonel staff to gain opinion on the need for financial advice for Service personnel to enable them to spend their award sensibly through-life disability issues.
- VI. IMEG elevator pitch - IMEG held a stakeholder event on 5 June 2017 attended by Charity representatives, medics, tribunal judges and other interested parties which successfully raised its profile. The IMEG Fourth report was published at the end of December 2017 www.gov.uk, with hard copies distributed to key stakeholders with prominence given to welfare staffs.
- VII. DBS Veterans UK are conducting a review of letters and correspondence standards including a pilot on using the decision-making form as part of the customer notification.

¹¹ All key stakeholders across DBS meet quarterly to discuss, update and identify opportunities to reduce demand across the business with a targeted outcome of effective communications, improved customer relationships and enhance experience.

Topic 13

Comparison with Other Schemes

Background

Finally, to test fitness for purpose the QQR team compared AFCS with other publicly-funded UK compensation schemes and one scheme for the Armed Forces of a Commonwealth nation, Canada. The schemes studied included the Fire-fighters Compensation Scheme, the Police Injury Benefits Scheme, the Criminal Injuries Compensation Scheme and the Canadian Armed Forces Scheme. Overseas comparisons were and are difficult to make owing to the widely varying social, welfare and healthcare arrangements in other countries; the QQR team felt that Canada provided a good basis for comparison, since Canada has a Public Health Service comparable to the NHS. The QQR team found (as did Lord Boyce) that one significant difference between the AFCS and all other government funded schemes is that only the AFCS makes payments in-service. All the others require the claimant to have left service on medical grounds. The conclusions were that the AFCS is more generous in its provisions than other UK government schemes, and that the QQR team did not identify any need to make any changes to the AFCS.

QQR recommendation

The QQR team found no requirement to make changes to the AFCS as a result of comparison with other schemes. They recommended that in any public statement where the AFCS is compared with other schemes, MOD should continue to ensure that awards are publicised as a two-part settlement with due emphasis on the GIP.

Response and progress on implementation of recommendation

MOD will take every opportunity to explain the full value of awards in its external communications, emphasising the two parts of an award, the lump sum and GIP.

Annex A

Armed Forces Compensation Scheme – lump sum award values

This table shows the value of AFCS awards up to 8 April 2018 and their new value as a result of implementing the QQR recommendations with effect from 9 April 2018.

Tariff Level	Up to 8 April 2018 Award Value	From 9 April 2018 Future Award Value
1	£570,000	£650,000
2	£470,000	£484,100
3	£380,000	£391,400
4	£290,000	£298,700
5	£175,000	£180,250
6	£140,000	£144,200
7	£90,000	£92,700
8	£60,000	£61,800
9	£40,000	£41,200
10	£27,000	£27,810
11	£15,500	£15,965
12	£10,000	£10,300
13	£6,000	£6,180
14	£3,000	£3,090
15	£1,200	£1,236

