

## **Factsheet 17 Armed Forces Compensation Scheme**

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### **AFCS General Information**

The Armed Forces Compensation Scheme is the compensation package for members of the Armed Forces. It is designed to provide compensation, irrespective of fault, across the full range of circumstances in which illness, injury or death may arise as a result of service. The legislation replaced the previous arrangements under the War Pensions Scheme and the attributable elements of AFPS 1975.

The Scheme covers all Regular (including Gurkhas) and Reserve personnel whose injury, illness or death is caused by service on or after 6 April 2005. For the first time compensation claims from serving personnel can be considered. Tax-free lump sum awards for injury can be paid in service.

Ex-Members of the Armed Forces who served prior to 6 April 2005 or who are currently receiving a War Disablement Pension or War Widows Pension are not affected by the scheme. They will continue to receive their War Pension or War Widows Pension and any associated benefits in the normal way. The new scheme applies for deaths, injury or illness sustained on or after 6 April 2005.

The Armed Forces Compensation Scheme provides modern, fair and simple arrangements with more generous benefits for the more severely disabled. It provides compensation for significant injuries, illness and death that are caused by service including when they result from warlike incidents or terrorism. It is a 'no fault' scheme, which means that individuals still have the option to sue the MoD for negligence although compensation provided by the AFCS would be considered if a court directed that damages were to be paid.

Under the terms of the scheme a lump sum is payable to Service or ex-Service personnel based on a 15-level tariff which is graduated according to the seriousness of the condition. A Guaranteed Income Payment (GIP), payable for life, will also be paid to those who could be expected to experience a significant loss of earning capacity. A GIP will also be paid to surviving partners (including unmarried and same sex partners) where the service person's death was caused by service and in the case of unmarried partners where they can demonstrate they were cohabiting in a substantial and exclusive relationship.

**For further information please contact Service Personnel and Veterans Agency:  
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### **How the tariffs work**

The tariff levels are graded 1-15 dependant on the degree of severity. Level 1 gives the highest payment covering the most severe conditions. Level 15 covers less severe injuries such as minor burns or a dislocated knee. For those on levels 1 to 11 of the tariff, a GIP will be awarded. The GIP is calculated by multiplying the pensionable pay of the Service person by a factor which depends on age at last birthday - the younger the person the higher the factor because there will be longer to normal retirement age.

The final amount of GIP payable is a percentage dependent on the tariff level of the condition for which an award is made. Awards made in tariff levels 12 to 15 do not attract a GIP. The percentages are in four bands as follows:

Band A - tariff levels 1 to 4 - 100%

Band B - tariff levels 5 to 6 - 75%

Band C - tariff levels 7 to 8 - 50%

Band D - tariff levels 9 to 11 - 30%

### **Example 1:**

A man aged 23 is invalided out of the Armed Forces having lost a foot as a result of service. He was receiving a salary of £20,000. The appropriate factor is applied for a person his age. The factor is 0.878.

The full annual GIP is calculated as: Salary x GIP factor, ie £20,000 x 0.878 = £17,560. As the injury is in tariff level 8 the person will receive 50% of the full GIP, so he will be entitled to £8,780 per year. This is tax-free.

### **Example 2:**

A woman aged 36 loses a leg as a result of service and is invalided out of the Armed Forces. She was receiving a salary of £35,000. The appropriate factor is applied for a person aged 36. The factor is 0.799.

The full annual GIP is calculated as: Salary x GIP factor, ie £35,000 x 0.799 = £27,965. As the injury is in tariff level 5 she will receive 75% of the full GIP ie £20,973 per year. This is tax-free.

The Scheme is administered by the Service Personnel and Veterans Agency at Norcross, Blackpool. The Service Personnel and Veterans Agency is an executive agency of the Ministry of Defence and also manages the War Pensions Scheme. Service Personnel and Veterans Agency aims to provide comprehensive assistance and advice to service personnel and their families in accessing the scheme. The Agency is also the focal point within the MoD for providing information and advice on a range of issues of concern to veterans and their families.

## **Key Features of the Armed Forces Compensation Scheme**

### **The key features of the AFCS are:**

- The AFCS provides benefits for illness, injury or death caused by service on or after

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6 April 2005 even if the individual remains in the Armed Forces Pension Scheme (AFPS) 75.

- It provides a tariff-based lump sum award for significant injuries and illnesses, and awards take into account the expected level of deterioration. Larger payments will go to the more seriously disabled. The tariff has 15 levels of award, which will be reviewed periodically. The current maximum award for a single injury is £285,000.
- It offers a tax-free Guaranteed Income Payment (GIP) for life for injuries at the higher tariff levels (1-11) to compensate for loss of earnings capacity. The GIP is set at different levels, dependent on the expected loss of earning capacity.
- Dependants - where an attributable death occurs a taxable Survivor's Guaranteed Income Payment (SGIP) will be awarded.
- For the first time, tax-free in-service awards for injury will be paid
- The scheme is designed to be administratively straightforward. It is run by the Service Personnel and Veterans Agency, with access to specialist medical and legal advice.
- The scheme uses the "balance of probabilities" standard of proof, in line with similar schemes for civil claims.
- There is a time limit to claim of 5 years from the event, when medical advice was first sought or after retirement where no particular incident caused the condition - whichever is the earliest. There is an exceptions list for late-onset conditions and discretion within the scheme for exceptional cases.
- There is no regular review mechanism. Awards are, in general, full and final with provision for interim awards where the long-term prognosis is unclear and for review in exceptional cases where significant unexpected complications arise.
- There is an internal reconsideration process and an appeals process to an independent tribunal, and Social Security Commissioners, Court of Appeal and the House of Lords on points of law, a process which is compliant with the European Convention on Human Rights.
- The scheme is supported by the Veterans Welfare Service.
- It is a no-fault scheme; a claim against the scheme would not prevent individuals making a claim for negligence against the MoD.
- These compensation benefits are in addition to those non-attributable benefits under AFPS 75 or AFPS 05 on medical discharge or death-in-service, but there are abatement arrangements to avoid double compensation (eg for loss of earnings capacity).

## **Frequently Asked Questions**

### **What is the purpose of the Compensation Scheme?**

It replaces previous arrangements for attributable benefits under the War Pensions Scheme (WPS) and Armed Forces Pension Scheme (AFPS) for injuries, illnesses or deaths caused by service in the Armed Forces on or after 6 April 2005. It introduces modern, fair and simple arrangements with greater focus on the more severely disabled.

### **When was the Scheme introduced?**

The new Scheme was introduced on 6 April 2005 for all members of the Armed Forces whose injury, illness or death is caused on or after that date.

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### **What about injuries, illnesses or deaths, which are linked to incidents prior to 6 April 2005?**

Any injury, illness or death, which is linked to events prior to 6 April 2005, will continue to be dealt with under the War Pension Scheme and the Armed Forces Pension Scheme 1975.

### **Who runs the Compensation Scheme?**

Service Personnel and Veterans Agency are responsible for delivering the Compensation Scheme.

### **Are attributable awards tax-free?**

Awards under the new Scheme for members' attributable benefits in retirement will remain tax-free. However, as with the current AFPS scheme, dependants' benefits will be taxed. For the first time lump sums for serving personnel are also payable. These will be tax-free.

### **How are compensation payments made?**

A lump sum is payable to the Service person or former Service person based on a range of tariffs according to the seriousness of the condition. A graduated Guaranteed Income Payment (GIP), payable for life, will also be paid to those whose injuries would cause a significant loss of earning capacity. A GIP will also be payable to surviving partners, including unmarried and same-sex partners, where the service person's death was caused by service.

### **How are Lump Sums and GIP calculated?**

The value of the lump sum award is determined by a tariff which has 15 levels. Level 1 gives the highest payment, covering the most severe conditions, such as loss of sight and hearing, or severe spinal cord injury leading to immobility and nursing care. Level 15 covers the least severe injuries for which compensation is paid, such as minor burns or a dislocated knee.

The value of the GIP is determined both by the Service person's earnings and the severity of the condition. The GIP is calculated by multiplying the basic pensionable pay of the Service person by a factor which depends on the age at last birthday - the younger the person the higher the factor.

### **What is the basis of the 15-tier tariff?**

The tariff takes account of the Judicial Studies Board Guidelines for the Assessment of General Damages in Personal Injury Cases and will be updated to take into account any developments in this and in medical understanding.

### **How will the Scheme view 'home to duty' travel?**

It is not considered appropriate to allow comprehensive cover for home to duty travel. However, travel on detached duty, to and from operations and exercises abroad, and travel to emergency call-out will be covered. Also travel to and from Service Family Accommodation where none can be provided within 50 miles of place of work is covered.

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### **How will the Scheme view sporting injuries?**

The AFCS covers injuries caused by service related physical development activities including Adventure Training (AT), physical education, exercise and sport. Generic activities have to be approved by the relevant Service authorities. The scheme also covers cardio vascular training to ensure fitness levels to pass military physical fitness or swimming tests are maintained. Playing in mandated and recognised sports events and Officials and organisers are also covered. However, the AFCS does not include participation in equivalent civilian events nor any social activities related to a sporting activity. It is the Service person's responsibility to arrange insurance cover for any non Service activities

### **Will War Pensions Scheme (WPS) supplementary allowances still be payable under the new scheme?**

No, but the claimant will be eligible to claim the corresponding State Benefits. It is no longer considered necessary to replicate the benefits which are now available from the State, which are paid on the basis of need.

### **Who is covered?**

All Regulars (including Gurkhas) and Reservists for all deaths, injuries or illnesses caused by service on or after 6 April 2005.

### **If I remain with the current Armed Forces Pension Scheme (AFPS) can I choose to receive current benefits for injuries due to Service, including a War Pension?**

No. All those whose injury, ill-health or death is a result of a Service incident on or after 6 April 2006 will automatically be covered by the new scheme, even if they have chosen to remain in the 1975 pension scheme.

### **Why is there a time limit for claiming attributable injuries?**

The sooner a claim is made, the better to allow easier access to evidence relating to the claim. However, a 5-year time-limit, together with a procedure to accept conditions whose onset we recognise may be delayed, should ensure that any claims relating to injury or illness due to service are compensated.

### **Are fewer cases likely to be successful?**

Claims that are supported by reliable evidence and processed using the new standard of proof are likely to be successful. The new scheme proposes a 5-year time limit to claim, but is supported by a procedure for late onset conditions. There will also be a reconsideration and appeals process which will allow claimants the opportunity to further their claims.

### **Will the Scheme allow for review in cases where the condition or disablement deteriorates over time?**

There is no routine review process. Awards are intended to be full and final. The level of the tariff takes into account the normal expected deterioration of a condition. There will be some situations where at the outset the long term prognosis for an injury will be uncertain. In these cases an interim award will be made relating to a tariff level which appears appropriate at that point. With this decision, the length of the interim award will be specified; this can be extended for up to a period of 2 years, within which time a re-assessment of the condition will take place.

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The level of the award will then be confirmed, raised or lowered. Additionally, after a final decision on awards has been made, there will be a procedure for review in exceptional circumstances, in cases where deterioration goes significantly beyond that normally to be expected of a condition.

**Is there an appeals process?**

There is an internal reconsideration process, where the claimant can ask us to look again at the decision. Decisions made under the Scheme can also be appealed to an independent tribunal. More information about appeals can be found in Factsheet 11.

**Want to know more?**

You can also find further information about AFCS and also the AFPS 1975 and 2005 on the MoD's website [www.mod.uk/issues/pensions](http://www.mod.uk/issues/pensions). There are comparison tables available, detailed framework documents and a Q&A brief amongst other useful information.

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