



The Ministry of Defence

**ARMED FORCES AND RESERVE FORCES COMPENSATION
SCHEME: THE MINISTRY OF DEFENCE'S PROPOSALS FOR
CHANGES TO THE RULES ON MORE THAN ONE INJURY
SUSTAINED IN ONE INCIDENT**

Summary of responses

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1. INTRODUCTION

1.1 The Armed Forces and Reserve Forces Compensation Scheme (AFCS) came into force on 6 April 2005 to provide for benefits to be payable for injury, illness or death caused by Service on or after that date. In July 2007, in light of experience of cases of serious multiple injury sustained mainly in combat, the Under Secretary of State for Defence and Minister with responsibility for Veterans (Derek Twigg) commissioned a review to assess whether the rules relating to multiple injuries arising from one incident were still meeting the Scheme's original intent of focussing on the most severely injured. The review concluded in January 2008, taking into consideration comments received during consultation, and the amending legislation came into force on 8 February 2008.

1.2 Internal consideration of the initial stages of the review involved discussion with the Service Chiefs of Staff. This concluded that the Scheme overall remained fundamentally sound. However it was acknowledged that the specific rules for multiple injuries were not appropriate for some of the severe and complex multiple injuries which service personnel are surviving today. In order to address this, the review recommended amendment to the rules in such circumstances to reinforce the focus on the most severely injured.

1.3 A consultation exercise was undertaken in October 2007 seeking comments and suggestions on the proposals for changes to the multiple injury rules. Consultation was with, principally, the members of the Central Advisory Committee, a statutory advisory body established to advise ministers on matters relating to Armed Forces compensation. Members include representatives of ex-service organisations such as the Royal British Legion, British Limbless Ex-Service Men's Association and the War Widows Association. In addition internal consultation with all service personnel was conducted via an electronic briefing document and also through the chain of command. The length of consultation took into account the specialised nature of the change and the experience of those consulted.

1.4 The consultation exercise ended on 7 November 2007. The breakdown of respondents is as follows:

Royal British Legion	1
British Limbless Ex-Service Men's Association	1
Ex-Service Mental Welfare Society	1
War Widow's Association	1
Soldiers, Sailors and Airmen Families Association	1
COBSEO	1
War Pension Committees	4
Army personnel	5
RAF personnel	1
RN personnel	nil

2. CONSULTATION PROPOSALS AND SUMMARY OF RESPONSES.

2.1 **Proposal 1: Amend the rules relating to calculation of award for multiple injuries so that in future, those with more than one injury sustained in a single incident and who qualify for 100% of the value of their Guaranteed Income Payment receive the full tariff value for all their injuries.**

2.2 Responses showed widespread support for increasing the lump sum award payable for multiple injuries in the highest tariffs. Many respondents welcomed the Department's willingness and flexibility when a clear anomaly was identified to review a specific part of the scheme, making early changes rather than awaiting a full review to longer scale. The concept of the severity of injury acting as the trigger for all other injuries to be paid at the full tariff value was also considered appropriate. However there were some concerns that the review had not gone far enough. These are outlined below together with MOD's response.

2.2.1 One comment was that the consultation period was too short and did not give enough time to consider the issue properly.

Comment: Rejected. It was appropriate to use a shorter consultation period as the proposal was a simple beneficial change to a specialised rule in the Scheme that we wanted to put into place as quickly as possible. Consultation was principally with the Central Advisory Committee on war pensions, members of which are representatives of ex-service organisations and have knowledge of the Scheme.

2.2.2 The maximum lump sum payout for injuries should not be restricted to £285,000. It was felt that there should not be a cap but instead each case should receive the full tariff value of each injury.

Comment: Rejected. Awards are payable based on a comprehensive tariff with those at the maximum tariff level 1 for the most severe injury, examples of which are: loss of both arms and legs or brain injury with persistent vegetative state. It would be difficult to justify a higher award to an individual with two or more less severe, although still serious, injuries than someone with an injury at the highest tariff. The lump sum is paid in addition to the guaranteed income payment, which is paid on discharge as a tax-free index-linked monthly payment for life. Based on personal circumstances this has no upper limit and can amount to hundreds of thousands of pounds over a lifetime.

- 2.2.3 The change should be extended to apply to those with multiple injuries in the lower tariffs.

Comment: Rejected. The new rule is in line with the aim of the review and the original intent of the Scheme to focus benefit on the most severely injured.

- 2.2.4 As part of consultation, the issue was raised that, if the discounting rules were removed for cases with injuries in the highest tariffs, some current combined amputation tariff descriptors covering more than one amputation would attract lower payments than if the constituent injuries were treated as separate tariff items.

Comment: Accepted. To address this, certain combined amputation tariff entries have been deleted. This will come into effect at the same time as the other changes to the legislation.

- 2.2.5 Assurance requested that monies would not be withdrawn from another area to accommodate the changes.

Comment: Acknowledged. The estimated immediate costs of £2-4 million with £1 million a year thereafter have been borne from within the existing costs of the Scheme. No other areas of the Scheme have been reduced to supplement the changes. This was already the MOD's intent prior to consultation.

- 2.2.6 The changes should be applied to all those who suffer multiple injuries arising from more than one incident. Individuals should not be penalised for suffering the same levels of disablement from separate incidents.

Comment: Not valid. Individuals who suffer multiple injuries in separate incidents are not penalised. Injuries incurred in separate incidents already receive the full value of the tariff amount for that injury, regardless of how many injury claims are made (with a few limited exceptions).

- 2.3 Proposal 2: To pay, exceptionally, an additional benefit in the form of a lump sum to those who sustained multiple injuries in a single incident and who qualify for 100% Guaranteed Income Payment but whose injuries were sustained before the date the new rules came into force. The additional lump sum would bring the compensation paid to those cases to the same level as those whose cases are dealt with under the new rules.**

2.4: This proposal received unanimous support from respondents. All those who commented welcomed the proposal to pay additional benefits to individuals whose injuries were sustained before the new rules came into force. The payment of the additional lump sum is an exceptional payment paid in recognition of the special circumstances surrounding the original rule and subsequent change and the specialised group of individuals affected.

3. Other issues raised.

3.1 Comments were also received on other areas not related to the multiple injury review. Some of these have been raised or discussed before, for instance during the evaluation of the first year of the Scheme: <http://veterans-uk.info/publications/misc.html>. While others were either new issues or simply sought clarification of the Scheme rules. These have been responded to individually. Where action is not already being taken, the issues raised will be used to inform future consideration of the Scheme.

4 Conclusion

- 4.1 The review recognised that a specific rule in the Scheme that relates to calculation of the lump sum award where more than one injury is sustained in one incident was not intended for the type of serious multiple injuries being survived today. Action has been taken to address this and we are pleased to have been able to respond to this now ahead of any further full 5 year review.
- 4.2 We welcome the response to this consultation which indicated strong support for the proposal to increase the amount paid to the most severely injured. Additionally all those who commented welcomed the proposal to, exceptionally, pay an additional benefit for qualifying cases where the injuries were sustained before the new rules came into force.
- 4.3 As a result of consultation an associated issue was identified that had not been previously foreseen. Immediate action has been taken to address this and included in the changes to the legislation in force from 8 February 2008. We are particularly grateful to BLESMA for the raising of this issue relating to combined amputation tariff entries (see para 2.2.4) and the opportunity to rectify this at the same time as introducing the new rule.
- 4.4 While the proposals received widespread support, concerns were raised that the review had not gone far enough. The MoD considered these comments before making changes to the legislation to reinforce on the

most seriously injured (the amending Statutory Instrument was laid on 16 January with the changes coming into force on 8 February 2008). The Armed Forces Compensation Scheme is still relatively new. While a full review of the Scheme will not be conducted until after five years of operation, in order to allow enough cases to support any evidence-based analysis, it is constantly monitored to ensure that it operates as intended. This allows action to be taken ahead of a full review where evidence supports the need for change. The multiple injury review and the subsequent beneficial changes to the Scheme are evidence of the validity of this approach. The comments and suggestions received will be used to inform any future consideration of the Scheme rules.

- 4.5 Details of the Armed Forces Compensation Scheme can be found on the MOD website: www.veterans-uk.info