



The Ministry of Defence

ARMED FORCES AND RESERVE FORCES
COMPENSATION SCHEME

EVALUATION OF FIRST YEAR – April 2005 – March 2006

March 2007

1. EXECUTIVE SUMMARY

1.1 The Armed Forces and Reserve Forces Compensation Scheme (AFCS) came into force on 6 April 2005 to pay compensation for injury, illness or death caused by Service on or after that date. An evaluation was carried out to assess the Scheme's performance in the first year against the original intent of simplifying the previous arrangements to provide a modern, fair and easily understood system with clear rules of entitlement.

1.2 The findings of the evaluation showed some positive outcomes from the first year such as simpler, speedier arrangements for claimants and internal dispute procedures that result in fewer cases that are settled by appeal to the Pensions Appeals Tribunals. These findings are based on evidence from monitoring of cases in the first year and feedback from claimants.

1.3 One of the features of the new Scheme which differs from the previous arrangements is the ability for personnel to make claims while still serving. In the first year evidence shows that 72% of in-service claims were successful. This demonstrates that, although the balance of probabilities standard of proof used in the AFCS differs from the previous War Pensions Scheme, individuals are not disadvantaged and no claim should fail where there is reasonable, reliable evidence that injury, ill-health or death is due to Service. Other categories of cases, such as medical discharge and death-in-service cases are considered automatically without the need for a claim form and regardless of cause or link to Service. Inevitably these will include cases where Service is not the cause and will have a lower success rate.

1.4 An issue that was identified early on is that take-up has been lower than anticipated in the original forecast. This was first identified in October 2005 and has been actively and continuously addressed. The situation will continue to be monitored and further action taken as appropriate. However no-one should miss out because personnel have 5 years to make a claim for injury.

1.5 Other issues were identified as a result of consultation with ex-service organisations. Some of these, such as timing of claims and the impact of AFCS payments on means-tested provisions, will be taken forward immediately. Others were related to the rules of the Scheme such as the lack of provision for overseas treatment and will be given further consideration as the Scheme continues to operate. The report recommends a fuller assessment of the AFCS after the fifth year of the Scheme.

2. BACKGROUND

2.1 The AFCS is no-fault, non-contributory and separate from compensation for common law claims. It replaced the previous compensation arrangements provided by the War Pension Scheme and the attributable elements of the Armed

Force Pensions Scheme. Injury benefits include a tariff-based lump sum payment and, at the higher levels of the tariff, an additional payment in the form of a regular guaranteed income payment (GIP) paid for life. Both of these are paid tax-free. Bereavement benefits for dependents are payable where death is due to Service. They include a survivor's guaranteed income payment, payable for life to widows, widowers, civil partners or unmarried partners, plus a bereavement grant of up to £20,000. Provision is also made for children, while they remain in full-time education, up to age 23.

2.2 The AFCS is administered by the MOD's Veterans Agency, with an independent and ECHR compliant appeals process. The legal test of proof for claims is the civil law test of balance of probabilities, as applied in other public sector pension and compensation schemes such as the Criminal Injuries Compensation Scheme. There is a time limit for claiming in most cases. The Scheme offers, for the first time, immediate in-service compensation to members of the Armed Forces who are injured but remain in Service.

Aim

2.3 The aim of the evaluation is to assess the Scheme's performance in the first year against the original intent and to identify issues needing prompt attention. It also identifies and highlights areas which can be monitored over the coming few years as more evidence from claims is accrued, to see whether certain aspects of the Scheme need to be reviewed or amended.

Methodology

2.4 Consultation with external stakeholders was carried out through a combination of questionnaires and one to one discussions including a workshop in October 2006. Stakeholders consulted were; Members of the Central Advisory Committee on War Pensions, (which includes representatives of the Royal British Legion, Royal British Legion Scotland, Combat Stress, BLESMA and the War Widows association), COBSEO, Army Widows Association, Forces Family Federations, RAF Widows Association and War Pensions Committee Chairmen. Pay Colonels of the three Services were also consulted.

2.5 Statistical information was provided by analysis of the first year's cases provided by MOD's Defence Analytical Services Agency (DASA). Feedback from users such as Veterans Agency caseworkers and welfare staff was gained through group discussion. Feedback from claimants was obtained from information received via the Veterans Agency's customer survey questionnaire issued with every notification of decision for the AFCS. Of the 525 questionnaires issued, 68 were returned (13 %) and the responses from these have been used to inform the report. Although the number returned is too small to be statistically valid, the information contained was provided directly from AFCS customers and so has been included as a useful indicator of customer opinion. The views of the

non-responders are unknown. Other issues identified from the regular scrutiny of cases by policy staff during the first year were also considered and used to feed into the evaluation as appropriate.

2.6 This report considers the number of cases submitted in the period 6 April 2005 to 31 March 2006. For completeness it includes the outcomes of those cases as at 20 October 2006. It is only appropriate to express the data in this way for the evaluation report because the AFCS is a new scheme. The usual (and future) method will be to present data on cases and decisions arising in the same period; decisions will not necessarily relate to the cases.

3: PROFILE OF CLAIMS AND AWARDS.¹

3.1 A total of 525 AFCS cases were received in the first year. Initially 2,825 cases were received; however this included cases where Service was both before and after 6 April 2005. Of these, 2,300 were referred on as War Pension cases and the remaining 525 were for the AFCS. There are special processes for handling claims where Service spans 6 April 05 with cases considered first under AFCS to check for entitlement under that Scheme. Where no award is payable, because the case is actually for the War Pension Scheme, the case is rejected under AFCS and passed to the War Pensions Scheme to consider. The rest of this commentary deals only with the 525 AFCS cases. The number of cases where Service is both before and after 6 April 2005 will be greater in the early years of AFCS operation and should decrease with time.

3.2 The table below compares the number of AFCS cases received against the original 2004 DASA forecast of claims in the first year of operation. Because the design of the AFCS was different from previous Schemes there was no directly relevant data to inform the forecast. Instead historical data was used, either from Service records (numbers of medical discharges or deaths-in-service) or from the War Pensions Scheme (post discharge claims). However for in-Service claims no data was available as this is a completely new provision introduced by the AFCS. Use of data on downgrading (where an individual is put on lighter duties because of injury, irrespective of cause of injury or any link to Service) data was used to help forecast in-Service claims but this is not a measure of Service personnel health and well-being. As such it was not an ideal source, but was the best available. This may explain some of the differential between the forecast for in-Service claims and the claims received.

¹ All numbers have been rounded to the nearest five for data protection purposes. Numbers may not add to totals because of rounding. The Figures for cases and outcomes are not definitive and should be regarded as indicative only. DASA will be publishing regular statistics in the future and these figures may be revised then,

Cases v forecast – AFCS cases for period 6 April 2005 to 31 March 2006

Case type	Forecast	Received
In-Service	2,200	235
Medical Discharge	350	200
Post Discharge	30	20
Sub-total	2,580	460
Death In-Service	150	65
Death Post-Service	Nil	Nil
Sub-total	150	65
Total	2,730	525

1. In this and the following table the split between in-service and post-service categories is derived from data collected by DASA manpower branches on dates individuals exit from the Armed Forces.

2. The figure of 235 in-service cases excludes around 45 cases recorded on the interim computer system as "withdrawn". These were where a claim form had been issued on request but not returned. They will therefore not have an outcome as there was no claim to process. This category of recording was a limitation of the interim computer system that initially supported AFCS and should not recur in future analysis.

3.3 The following table considers the type of case received in the first year and the subsequent outcomes.

AFCS outcomes for cases arising in period 6 April 2005 to 31 March 2006 as at 20 October 2006

Award Type	Cases	Allowed	Disallowed
In-Service	235	170	60
Medical discharge	200	50	145
Post-service	20	5	15
Sub-total	460	225	215
Death In-Service	65	15	45
Death Post-Service	-	-	-
Sub-total	65	15	45
Total	525	245	260

1. The outcomes reflect the current position as at 20 October 2006.

2. The figure of 235 in-service cases excludes around 45 cases recorded on the interim system as "withdrawn". These were where a claim form had been issued on request but not returned. They will therefore not have an outcome as there was no claim to process. This category of recording was a limitation of the interim computer system that initially supported AFCS and should not recur in future analysis.

3.4 Awards show the following;

- The majority of awards have been at the lower range of the tariff; - levels 12-15.
- Five awards were in tariffs 1-11 (generates award of GIP)
- The highest injury award for a single condition is at tariff 3 (£115,000 lump sum plus 100% GIP on discharge)
- The total amount awarded as in-service injury lump sums is £1,013,810
- The total amount awarded for all injury lump sums is £1,114,817

- More than two-thirds of in-service claims, those required to be submitted by the serviceman, succeeded. This may reflect the fact that these claims are generated because a specific incident or injury has occurred which is believed to have a Service link.
- Medical discharge cases - about a quarter succeeded. The low success rate may reflect the fact that these cases are automatically considered without the need for a claim form and regardless of whether there is a possible link to Service or not. There are no statistics available on specific individual reasons why cases are rejected as they are recorded using generalised reasons such as “not due to Service”. However discussion with caseworkers indicate that a proportion of medical discharge cases are because the person entered Service with a pre-existing injury which did not stand up to initial training or the person had no pre-existing injury but was found not up to the required standard, neither of which fall to be compensated under the Scheme.
- Death-in-service cases – about a quarter of these succeeded. These again are automatically considered regardless of the cause of death and the low success rate reflects the expected situation in any one year that a proportion of in-service deaths are due to factors unrelated to Service such as natural causes, or accidents, including road-traffic accidents, not caused by Service.

Clearance times

3.5 In the first year of operation no formal target for clearing cases was set in recognition of the potential teething problems of delivering a new Scheme with new processes and tools for administration. However a target of 35 days was introduced by the Veterans Agency for the accounting year 2006/07. Average combined clearance figure for the period April 2006 to September 2006 for all AFCS cases is 36 days.² The Veterans Agency will keep the target under review to ensure realistic clearance times with experience of more claims and a better understanding of the requirements of the Scheme.

3.6 This compares to the combined average clearance time figure of 49 days for the period April 2006 to Oct 2006 for all cases under the War Pensions Scheme. Although a direct comparison is difficult because of the differing features of the two Schemes including different types of claims and awards, initial indications show that AFCS cases are decided significantly quicker than War Pensions cases, suggesting that the simpler structure and rules of the Scheme make for speedier processing.

² Average monthly figure for October 06 was 29 days for AFCS cases and 50 days for War Pensions Scheme cases.

Reconsiderations and appeals

3.7 The AFCS has a provision for the Veterans Agency to look at a decision again where the claimant is unhappy with the outcome of his case. This is called "reconsideration" and can be done at the claimant's request or automatically if an appeal is lodged and one has not already been carried out. It is a new provision in the AFCS, and does not interfere with appeal rights but offers a quick, less formal route of resolution. Reconsideration is undertaken by a different decision maker of a higher grade.

3.8 The following table reflects the number of reconsiderations and appeals resulting from the number of first stage decisions in the first year. It is not possible to do a direct comparison in this way with the War Pension Scheme because the statistics showing the number of war pension cases decided and the number of appeals lodged each year are not specifically related to the same cases: some appeals may have resulted from outcomes notified in the previous year. Therefore the War Pensions figure is shown for broad comparison purposes only.

Reconsideration/appeals for cases in period 6 April 2005 to 31 March 2006 as at 20 October 2006

Scheme	Decisions (injury and death)	Reconsiderations	Appeals	Appeals as % of decisions
AFCS	525	50	15	3%
WPS	19,020	Not a feature of the Scheme	2,850	15%

1. As with other tables figures rounded to nearest five, totals may not add due to rounding.

2. WPS figures taken from quarterly statistics March 2006 (table 2.2) and are for period 6 April 2005 to 31 March 2006 excluding supplementary allowances.

3. AFCS figures are for appeals received, WPS are appeals sent to PAT.

3.9 Reconsiderations and appeals include the following (as before figures rounded)

- 10% of decisions resulted in a reconsideration (this includes those conducted at claimant's request and those done automatically as part of pre-appeal process).
- 35 reconsiderations (7% of all decisions) were conducted at claimant's request of which 5 went on to appeal.
- 10 reconsiderations were conducted automatically as part of pre-appeal procedures.
- Of the 50 reconsiderations conducted, 10 resulted in a revised decision.
- No appeals were decided by 20 October 2006 but by 16 January 2007 six appeals had been heard, five relating to claims made in the first year of operation, in all of which the Pensions Appeal Tribunal allowed the appeal. The MOD is currently considering what action to take, including seeking leave to appeal to the Social Security Commissioners against the Tribunal decisions where appropriate.

Comparison of AFCS cases against injuries or deaths sustained

3.10 Injuries. There is currently no central record of all injuries arising in-Service. The number of incidents recorded on MOD's central Health and Safety recording project (CHASP), used to record all incidents leading to injury, for the period 6 April 2005 – 31 March 2006 shows **2647** incidents. Of these **1030** were recorded as "major" or "serious", the rest were categorised as "slight, unknown or "trivial. In comparison there were **460** AFCS injury cases received. There are certain limitations with this approach, one being that all incidents on CHASP are self-reported and so open to non-reporting of incidents plus interpretation about categorisation. Additionally, although injuries may have been sustained in the first year, an individual has up to 5 years to make a claim under AFCS. CHASP is due to be replaced by a new reporting system: IRIS (Incident Report Information System) in 2007/8.

3.11 Deaths. The number of deaths in-service reported by DASA (Health Stats) in 2005 was **158**. All death-in-service cases are referred automatically to the Veterans Agency via the JCCC (Joint Casualty Compassionate Cell). However only those where there is potential entitlement are registered as AFCS cases i.e. where there is a potential qualifying partner (married or otherwise) and/or children. All cases where the deceased was a single person with no spouse, civil partner, unmarried partner or child would not have been registered as a claim for compensation as there is no potential entitlement to consider. Therefore there were only **65** AFCS bereavement cases registered in the first year.

3.12 Funding the Scheme. Unlike for the War Pensions Scheme, the Ministry of Defence pays an employer's contribution of 2% of the Armed Forces Pay bill to the Treasury to cover the cost of the AFCS. This amount covers not just the lifetime liability of claims made in that year but any incident in that period which may generate a claim in the future, such as claims made within the five-year time frame, any claims for late onset illnesses and post-service deaths. Given the unique nature of the new Scheme, the Department has been unable to rely on data from other Schemes to inform this 2% provision. The Government Actuary Department has agreed with the Treasury that the 2% rate is a reasonable provision for the initial period of the Scheme operation. The rate will be examined as part of the next five year review of Superannuation Charges Adjusted for Previous Experience (SCAPE) when actual cost information will be available to inform the rate setting process.

4. EMERGING FINDINGS

4.1 The evaluation of the first year of operation of the Scheme has identified a number of positive outcomes, together with some issues which require attention or further investigation. The majority of the issues were raised by external stakeholders consulted and included those of a procedural nature while others were a matter of Scheme design or policy. Key outcomes and issues are outlined

below with recommendations where appropriate.

4.2 Simpler arrangements for claimants. Although there were some comments from external stakeholders that the Scheme is complicated and difficult to understand, this is not reflected in feedback from claimants. 80% of respondents who completed a customer satisfaction survey (13% of all first year cases) reported finding it easy to obtain information on the Scheme and 95% reported finding it easy to obtain and or complete the claim form. Agency staff reported that the clear rules of the Scheme made it easy to explain decisions to the claimant's satisfaction. Detailed decision notifications are a feature of the Scheme and staff report that claimants found them informative and simple to understand. The low numbers of claimants requesting reconsideration or appeal suggest that these, together with the clear rules of entitlement, enable claimants to understand and accept decisions.

4.3 Speedier awards. Evidence from the Veterans Agency's monitoring processes shows that AFCS cases are cleared more quickly than War Pensions cases. In addition 88% of customers who completed a customer satisfaction survey were happy with the speed in which their case was decided. This indicates that the simpler structure of the AFCS with clear rules and tariff based awards system make for easier and quicker decisions.

4.4 Informal dispute resolution process/fewer appeals. Although it is too early for a conclusive analysis, the initial indications are that the use of reconsideration as a means of resolving disputes without formal appeal is effective. The majority of reconsiderations (35 of 50) were carried out at the claimant's request indicating that claimants are happy to use the facility. Of these only a small minority went onto appeal indicating that, for the majority of cases, the outcome of the reconsideration resolved the issue. Evidence also suggests a lower percentage rate of appeals for AFCS decisions than with War Pensions.

4.5 Awareness/low take-up. The number of in-service claims received in the first year is markedly less than the original number forecast by DASA in 2004. Possible reasons for this include: overestimation of claims as there was no directly relevant data to inform the forecast; the focus of service personnel taken up with the Offer to Transfer to the new Armed Forces Pension Scheme 2005, and the newness of the opportunity to make in-service claims. A suggestion was also made that some Service personnel were reticent about making a claim in case it harmed their Service career or because they had misunderstood the intent of the Scheme, although there is little evidence of this. It should however be noted that lack of awareness or misunderstanding of the Scheme in the first year does not mean personnel will lose out, given the five year window in which to make a claim.

4.6 Comment. The Ministry of Defence first identified low take-up of the Scheme as an issue in October 2005. An active and continuing campaign to

address this has been underway since then, including advertising the Scheme by placing articles in Service publications such as "Soldier", and the Service families' journals. Concurrently, it was advertised on pay slips, for example on Army and Royal Navy payslips. In addition presentations on the Scheme have been delivered to Service personnel at Headquarters and on study days. The need to embed the AFCS into Service culture is recognised as most important and several initiatives have been put into place to address this. All three Services have been provided with a presentation to be shown to personnel during initial training to complement the information booklet issued to all serving members of the Armed Forces in April 2005 and to all more recent recruits on entry. Other initiatives include, for example, pre-deployment briefing on AFCS to personnel being mobilised through the Reserves Training and Mobilisation Centre. In addition AFCS information is included in the training for Service administrators and Army Unit Welfare Officers. As these sort of initiatives start to affect more people it is anticipated that awareness and therefore take-up of the Scheme will increase, however improvement of awareness remains an active issue for the MOD.

4.7 Overseas treatment. This was an issue raised and debated prior to the introduction of the Scheme. Treatment for accepted conditions was originally funded by the War Pensions Scheme before the advent of the NHS, but by the time of the 1983 Service Pensions Order the discretion was severely limited and could not be applied to treatments provided under other UK legislation e.g. by the NHS. At a time when the Veterans' Programme is intentionally cross-governmental and not just a matter for the MOD, AFCS contains no provision to meet treatment costs. This reflects a modern Scheme operating within the context of general UK social welfare and public services including the NHS. However disabled Service personnel (amputees in particular) who reside abroad, including those recruited outside of the UK, do not necessarily have access to similar services or provisions.

4.8 Comment: Officials will consider options for addressing the issue. The main concern of external stakeholders focused on amputees but any consideration of provision would have to encompass the full range of disorders.

4.9 Tariff levels. Certain ex-Service organisations consider that the tariff levels for compensating mental illnesses are set too low, particularly in comparison with those set for other injuries such as amputations (the highest award for mental illness/injury is set at tariff level 8 which provides a tax-free lump sum of £28,750 and a 50% tax-free Guaranteed Income Payment for life). The assertion was also made that a person with Service-related mental illness will generally deteriorate over time rather than improve, and will therefore have an extremely poor long-term prognosis for employment prospects and quality of life. They believe that the current tariff levels, set as they are in the context of modern best practice on management of mental illness which promotes continued improvement or, at least maintenance, of the condition, under-compensates for this type of illness.

4.10 *Comment:* The tariff levels were informed by existing, established models such as the Judicial Studies Board (JSB) award guidelines and the Criminal Injuries Compensation Scheme. Although a new edition of JSB guidelines has just been published there has been no major revalorization of awards since 2005. The Ministry of Defence judges that the compensation levels are sound and there are no current plans to change the tariff levels. In the equivalent tariff for physical disorders, any item above tariff level 8 involves reduced life expectancy. Officials have agreed to keep the situation under review, taking into account practical application and experience of live claims as well as consideration of any emerging new evidence.

4.11 **Review for exceptional deterioration - 10 year limit.** This was another issue raised and debated prior to the introduction of the Scheme. Concerns have been raised that there should not be a time limit on reviews, particularly for amputees who, it is asserted, are more likely to develop problems at a later stage. Although the intention of the AFCS, in line with many other compensation arrangements, is that awards should be full and final, the Scheme contains a provision exceptionally to review and revise an award for cases where the injury has unexpected consequences outside of the expected prognosis. The matter was discussed with experts taking into account that AFCS recipients would have access to current best practice medical management with its emphasis on people with disabilities keeping as fit as possible and would therefore be unlikely to suffer the same levels of deterioration that past generations may have. A time limit of 10 years from the date of award was introduced to allow sufficient time for any departure from the expected course to be detected but would also protect the Scheme from paying for developments that are unrelated to Service (such as age-related effects).

4.12 *Comment:* This is an issue that can be considered over the next few years as evidence builds up from real claims. Officials will monitor use of the exceptional review process to establish whether there is any evidence to suggest any issues around the 10 year limitation.

4.13 **AFCS award impact on means tested benefits and services.** An issue that has emerged from the evaluation process is the effect that an AFCS award can have on means-tested social services support, in particular the Disabled Facilities Grant. One suggestion was that AFCS awards should be exempt from the social services means-test.

4.14 *Comment:* Officials are taking forward work to establish the extent of the issue and how it relates to wider Government policies. However it should be noted that the lead responsibility for this rests with the relevant Departments who set policy and the local authorities who administer the care services. Trust funds set up from lump sum payments for personal injury are disregarded for means-testing as are certain types of compensation awards. The matter is made even

more complex by different approaches in the four UK countries, while individual local authorities also have discretion to set different funding criteria.

4.15 Timing of claims. Another issue raised during the evaluation is the perception that some individuals were delaying claiming until their prognosis is completely clear in order to get the best possible payment. This is said to be a particular problem with those more severely injured where decisions about medical discharge have not yet been taken.

4.16 Comment: This is a misunderstanding of the Scheme rules and officials will be working with the Services to include this aspect in their continuing awareness programmes. The Scheme has the provision to make an interim award to someone whose prognosis is not clear at the time of making a claim to the extent that it is not possible to decide finally the tariff level, with a final award made within two years. For those where decisions on medical discharge have not yet been taken a claim can still be made in-service. Should the individual then be medically discharged at a later date the scheme provides for an automatic review of the case to check if an increased award is appropriate at discharge.

4.17 Other issues. A number of other issues were also raised which focused on the Scheme design or Policy. These have been the subject of debate previously, in some instances during the passage of the Primary legislation on which the AFCS is based (the Armed Forces (Pensions and Compensation) Act 2004 or during the consultation on the draft AFCS Order (which included or mentioned all the provisions outlined below) before the Scheme was introduced, but were raised again during the evaluation process. These include;

4.17.1 Concern that the legal test of proof used in the Scheme; “balance of probabilities” disadvantages the claimant when compared with the test in the War Pensions Scheme, in particular the rule that Service must have been the predominant cause of any injury, illness or death for benefit to be paid. It was suggested that any factor of Service should apply.

Comment: The “balance of probabilities” standard of proof is the accepted approach in other occupational schemes as well as in the civil courts. No AFCS case should fail where there is reasonable, reliable evidence that injury, ill-health or death was caused by Service. Of the in-service claims made in the first year more than two thirds succeeded. “Predominant cause” is the test of entitlement that is applied when there is more than one possible cause of an injury, illness or death. The AFCS will make a full award for any such injury, etc, if it is mainly caused or worsened by Service even where there are other contributory causes unrelated to Service.

4.17.2 Use of the rule that prohibits compensation being paid for an injury that existed before enlistment into the Service and which then becomes worse in the first 6 months after enlistment. The suggestion was that

compensation should be paid regardless of the time since enlistment whenever enlistment had been accepted.

Comment: Initial training is a probation period. For those with a pre-existing condition, a clinical judgment is made on enlistment whether it is likely to deteriorate under the pressures of initial training, and from there to have a trial and if successful serve, but if not to leave without penalty. Not including worsening as eligible for AFCS benefits in the first six months is therefore appropriate in both a medical and a training context.

- 4.17.3 Use of the 50 mile residence exception which allows benefit to be paid for injuries/death occurring during normal travel to and from work as long as the person is required to live in MOD provided family accommodation more than 50 miles from base. The suggestion was not to have this particular exception but instead to allow all incidents occurring during normal travel to and from work.

Comment: AFCS benefits are payable where the injury, illness or death is caused by Service. The intent is that accidents or injury occurring as a result of normal travel between home and place of work are not covered by the Scheme because home to work travel is a necessity of any employment and not particular to Service. Exceptions to this include those being deployed on operations, travel between two places of duty and individuals required by the MOD to live more than 50 miles from their place of duty.

- 4.17.4 Use of the rule (Article 11(a)(iii)) which excludes payment of benefit for any injury or death which has been caused by medical treatment of an injury, except where the person was on military operations outside the United Kingdom and in circumstances where medical facilities are limited. The suggestion was that no medical treatment arranged by the MOD should be excluded

Comment: Injuries arising from medical treatment of an injury would fall to be considered as medical negligence and would be appropriate for a common law claim for compensation. The Scheme therefore excludes injuries arising from normal treatment of an injury, but provides for situations where the nature of Service means that only limited medical facilities are available.

- 4.17.5 Abatement of the AFCS Guaranteed Income Payment award by any pension or allowance paid for the same injury, particularly the abatement by Reservists civilian occupational pension. The suggestion was that any Reservist civilian occupational pension, even if paid for the same injury, should not be taken into account. There was also concern over the

complexity of the abatement processes.

Comment: This rule provides for the prevention of duplication of payment and applies to all Regular and Reservist personnel. It allows for the AFCS award of Guaranteed Income Payment to be reduced where other pensions or allowances are paid for the same injury. To exempt the Reservists civilian occupational pension from the abatement rules would allow Reservists a financial advantage over Regular and other Reservist personnel in the same position.

4.17.6 Extension of time-limits for claiming, including both the 5 year time-limit for injury claims and the 1 year time-limit for bereavement claims. The suggestion is that more time needs to be allowed for people to make a claim, particularly for delayed onset, prognosis and the time needed to evidence the link to Service.

Comment: The time-limit of 5 years to claim for injury is already an extension from the original proposed limit of 3 years. As most injuries/illnesses present in a relatively short time this should not be an issue. The Scheme already has in-built exceptions to the time limits for a number of late-onset conditions. There are also exceptions to the time-limits for injury and death claims where the individual is prevented from claiming because of health problems.

4.18 While these further issues have been outlined during previous discussions or debate they have not altered the policy intent behind the Scheme. However as with all issues raised, officials will monitor the situation and they can be examined further if evidence suggests this is necessary.

5. SUMMARY OF RECOMMENDATIONS

5.1 ***Continue the awareness programme.*** It is evident from the responses and comments arising from the evaluation that there is still work to be done in this area, particularly in ensuring that knowledge of the AFCS is embedded into Service culture, making sure a Service person is made aware of it at key points in his or her career and can access the Scheme without perceived barriers. The programme should focus on ensuring that those who have dealings with Service personnel at time of injury or discharge are able to advise accordingly. Awareness of the five year time-limit will be of particular importance.

5.2 ***Examine overseas treatment.*** Although this issue can be included as part of the further assessment of the Scheme in five years time, there may be other ways of addressing it. Officials will research the issue to explore other options available in advance of the five year point.

5.3 Investigate the effect of AFCS award on means-tested support.

Officials will undertake research to determine the extent of the problem and consider ways forward.

5.4 Further assess the Scheme in five years. Certain issues were raised for which there is no immediate answer. At this early stage in the Scheme it is too soon to conduct a thorough assessment of the Scheme rules, particularly as the low number of cases do not provide enough evidence to support any analysis (unlike the amendments made in June 2006 which were identified as genuine omissions from the original legislation based on experience of dealing with real cases). Instead an assessment should be undertaken at the five year stage (April 2010). In the meantime, officials will continue to monitor the issues raised to collect evidence, but also to determine if earlier action is required.