



Report on Study of War Pension Rejections

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BACKGROUND

- 1.1 On 14 June 2004 it was announced that the Rt Hon The Lord Lloyd of Berwick had been asked to chair an “independent” public inquiry into the illnesses suffered by some 6,000 veterans returning home from the first Gulf war.
- 1.2 The Terms of Reference of the inquiry were to investigate the circumstances that have led to the ill health, and in some cases death, of over 6,000 British troops following deployment to the first Gulf War, and to report.
- 1.3 More than 53,000 veterans served in the 1990/91 Gulf conflict. The figure of 6,000 quoted relates to Gulf veterans who have been awarded either a war pension or gratuity or had their claim rejected. The claims did not necessarily relate to Gulf service, but will in many cases have arisen from service more widely. The figure was taken from information supplied by the Veterans Agency¹.
- 1.4 War Pensions are paid for disablement where there is a causal link to service, regardless of the diagnostic label. Claims are decided on the basis of their individual facts and current generally accepted scientific and medical understanding. The War Pensions Scheme is subject to unique and generous rules on proof – for claims made within seven years of leaving service, the onus is on the Secretary of State to prove, beyond reasonable doubt, that the claimed condition is not due to service
- 1.5 Lord Lloyd’s inquiry reported on 17 November 2004. The investigation took evidence from Gulf veterans, and families, former senior service personnel, researchers active in the field and parliamentarians with an interest. The Department did not give evidence, but supplied a large amount of material, including statistics on War Pension claims.
- 1.6 The Lloyd report made four recommendations, one being that the 272 claimants who had their claims rejected should have those claims reviewed in light of the report.
- 1.7 Following publication of the report, the Parliamentary Under Secretary of State for Defence and Minister for Veterans announced on 29 November 2004 that the MoD would re-examine the roughly 100 cases that do relate to rejection of Gulf-related illness where these could be identified.

¹ We understand that the figure – precise number 6,126 - was extracted from Veterans Agency statistics for the end of May 2004. See annex A for more details of the derivation of the figures.

DERIVATION

- 2.1 The Veterans Agency retains statistical data on claims from veterans who have served in the Gulf conflict on a dedicated database.
- 2.2 The database records claims for War Disablement Pension from Gulf veterans for any injury incurred throughout their service. So the conditions claimed may relate to service in the Gulf, or to service elsewhere – the common denominator is that the claimant had service in the Gulf, not that his or her injury or illness was caused by service in the Gulf.
- 2.3 Annex A sets out the derivation of cases identified from the internal database.
- 2.4 The database contained 114 entries for wholly rejected claims relating to “Gulf war illness”. 2 of these entries were duplicates and two of the cases are listed for imminent hearing at the Pensions Appeal Tribunal and the papers were therefore unavailable for examination; these two cases will be reviewed separately when the papers become available.
- 2.5 In total 110 cases were therefore examined. 102 of these had been considered under the main War Pension Scheme for members of the Armed Forces. The remaining 8 cases involved people employed on civilian ships contracted to provide support in the Gulf and fell for consideration under the Mercantile Marine Scheme, for which the Veterans Agency also has administrative responsibility.

METHODOLOGY

- 3.1 The 110 cases were examined by Veterans Agency staff, lay and medical, who were not engaged in making the original decisions.
- 3.2 The purpose of the examination was to identify cases where there were grounds for reviewing the decision on any particular case.
- 3.3 Those scrutinising the cases therefore carried out a thorough examination of each case in order to identify:
 - any irregularities in the way the case had been considered;
 - whether the judgements exercised at the time of the original decision were reasonable in the light of the understanding of the time and whether they would have been affected by any subsequent developments in the understanding of the symptoms and illnesses occurring amongst Gulf veterans;
 - whether any subsequent claims, reviews and processing and outcomes of appeals during the course of the case had been handled correctly.

KEY FINDINGS

Veterans Agency decisions

- 4.1 The examination revealed some form of irregularity in 6 of the 110 cases. Otherwise, procedures on claims, reviews and appeals have been properly followed, and the outcomes reflect the evidence and contemporary understanding, and would not have been affected by subsequent development in the understanding of symptoms and illnesses occurring amongst Gulf veterans. In considering the rate of irregularities, account needs to be taken of the complexity of many claims from Gulf veterans, often involving multiple conditions or symptoms and repeated requests for the addition of further conditions.
- 4.2 The small number of irregularities do not relate to the findings of the Lloyd report and no decision is being revised because of any finding in the Lloyd report.
- 4.3 In over 90% of cases more than 1 condition was claimed. One third (35) of the cases required consideration of more than 10 conditions that the claimant related to Gulf Service. In total, 374 different conditions or symptoms were claimed, the most common being depression, post traumatic stress disorder, headaches, Gulf War Syndrome² and mood swings. Many other associated symptoms have been claimed.
- 4.4 Of the six cases containing some form of irregularity:
- One involved a clear and unambiguous procedural error, involving failure to implement a decision that the individual was suffering from an illness attributable to service in the Gulf. Arrangements are being made to pay arrears from 23.02.96 to 09.09.00 and action is underway to establish the appropriate level of assessment from the end date.
 - One claim was wrongly rejected
 - In four cases the claim was only partly answered – the decisions made did not cover the full range of conditions and symptoms claimed, all of which related to service in the Gulf.
- 4.5 In all cases, the relevant decisions are being formally reviewed and will be notified to the claimant, with an appropriate notice of award or rejection. Any decision taken on review will carry a full right of appeal.

² The use in this report of the term “Gulf War Syndrome” is a direct report of the entry on the claim form. It is not, and should not be interpreted as, a recognition by the Veterans Agency or the Ministry of Defence, of the existence of a discrete diagnostic entity with that name.

Appeals

4.6 Out of the 110 cases examined, 37 veterans have exercised their right of appeal to the Pensions Appeal Tribunal (PAT) on a question of entitlement.

Of those cases:-

- 15 are currently progressing through the appeals process, the files have been examined for the purposes of this exercise and we maintain that the basis for the original decisions were correct.
- In 16 cases the PAT confirmed the Department's decision in full.
- In 4 cases, the appeal was partly allowed/disallowed³.
- In 1 case, there is an on-going appeal. An earlier appeal was partly allowed/disallowed³.
- In 1 case, there is an on-going appeal. In an earlier appeal the PAT upheld the Department's decision.



Alan Burnham
Chief Executive
Veterans Agency
Norcross
Blackpool
FY5 3WP

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³ In these 5 cases the range of conditions allowed by the Pensions Appeal Tribunal which were rejected by the Department are as follows: Asthma, agoraphobia, depressive disorder, chronic fatigue syndrome, dysthemia, cancer of the prostate anxiety and PTSD.

ANNEX A

Derivation of numbers

1. The Veterans Agency maintains a database that records the numbers of claims made by veterans who have served in the Gulf. Where such a veteran makes a claim for a war disablement pension (WDP) for any injury incurred during his Service his details are entered on the database.
2. The Agency produces a monthly report from the database, which is sent as a courtesy and on an exceptional basis to the National Gulf Veterans and Families Association. The figures supplied by the Agency to the Lloyd inquiry were derived from the report of the position at the end of May 2004.
3. The relevant figures for the end of May were:

(a) Type of Gulf War Claim	(b) Claimants on database	(c) Awards made	(d) Rejected
<i>“Gulf War Illness”</i>	1580	1393	108
<i>“Ordinary”</i>	4546	4226	164
Total	6126	5619	272

4. In response to the Lloyd Report recommendation that “272”⁴ claimants who had their claims rejected should have those claims reviewed in the light of this [Lloyd] report, USof S announced that the Department would re-examine the “100 or so” rejected claims that related to “Gulf war illness”
5. The 114 entries on the Gulf database that form the starting point for this examination represent the figure for “Gulf war illness” in column (d) of the table, updated to reflected the position at the end of October 2004.
6. The functionality of the database allows for claims to be recorded simply as accepted or rejected. Where a claim has been made for multiple symptoms/conditions and an award has been made for all or some of the claimed conditions, the database records an acceptance. This applies even where the rejection may have been for “Gulf war illness”. The figures in column (c) may therefore contain some entries which involve an award for a condition which is not a “Gulf war illness” (for example a physical injury) and a rejection of other symptoms or conditions which might be regarded as “Gulf war illness”.

⁴ The total figure from column (d) of the table

7. A search of the database therefore identified 114 rejected cases where Gulf veterans had claimed symptoms/illnesses that they related to their service.
8. Two of the entries were duplicates and as such discounted, leaving a total of 112 cases for examination.
9. Two cases are listed for imminent hearing at the Pensions Appeal Tribunal and the papers were not available for examination.
10. For the purposes of this report, therefore, the Service and medical aspects of 110 cases have been examined.