Armed Forces Compensation Scheme

THE FACTS
Armed Forces Compensation Scheme

This factsheet is part of our Benefits range. You will find it useful if you are deaf or have hearing loss as a result of military service. We use the term ‘deaf’ throughout to refer to all types of hearing loss.

Read this factsheet to find out:

- What is the Armed Forces Compensation Scheme (AFCS)?
- How does the scheme affect me if I already have a War Disablement Pension?
- Can I claim if I am deaf?
- How do I make a claim?
- Is there a time limit for claiming?
- How is my claim decided?
- Will my award be reviewed?
- How is my Guaranteed Income Payment calculated?
- Can I claim benefits as well as my GIP?
- Do I have to pay national insurance contributions to get a compensation scheme payment?
- Is a compensation scheme payment means-tested?
- How does a compensation scheme payment affect my other benefits?
- What if I disagree with a decision?
- What is priority health treatment for veterans?
- Where can I get further information?

If you would like this factsheet on audio tape, in Braille or in large print, please contact our helpline – see front page for contact details.

What is the Armed Forces Compensation Scheme (AFCS)?
The scheme came into force on 6 April 2005 and applies to people injured, made ill or killed as a result of service in the armed forces on or after 6 April 2005. This includes the Royal Navy, Royal Marines, Royal Air Force and the Regular Army. Members of the Reserve Forces and their dependants are also eligible.

The Service Personnel and Veterans Agency (SPVA) administers the scheme. All those who are given an award under the Scheme receive a lump sum, and those that are seriously injured and have an injury with lasting effect also receive an income stream on leaving the armed forces.

The AFCS provides compensation for all injuries, illnesses, and deaths which are predominantly due to or worsened by service after the introduction of the scheme on 6 April 2005. The War Pensions
Scheme provides compensation for those injured, made ill or killed as a result of service before this date.

**Overview of the scheme**
The Armed Forces Compensation Scheme operates on a ‘no fault basis’. This means you don’t have to show negligence by the forces to make a claim. If you feel there has been negligence, you can still make a civil claim against the Ministry of Defence as your employer. However, any payment made by the compensation scheme may be taken into account when calculating the civil compensation award. You will need to take legal advice if you are considering a civil claim.

Where a claim for an AFCS award is made and, having considered the evidence, it is decided that the injury or illness in question is caused by service, the impact of the injury or illness on the individual will be assessed. The AFCS is constructed with 15 levels, known as tariff levels, reflecting the severity of injury or illness. A tax-free lump sum is paid for all accepted injuries, as compensation for pain and suffering. This lump sum can be paid in-service – you don’t need to wait until discharge to make a claim. However, it is important you make a claim at a time that is right for you. In most cases, there are seven years to make a claim – for more information on this, see below.

For more serious injuries or illnesses (tariff level 1 to 11), a tax-free inflation-proof income stream known as a Guaranteed Income Payment (GIP) is paid from discharge for life. This payment enhances the pension you receive and is paid to recompense loss of earnings over a lifetime. The amount will be calculated based on your salary in the forces, your age and the severity of your condition, the pension an individual might have earned and the ill health pension they will also be paid. GIP is non-taxable, but will only be paid after you leave the service.

**How does the scheme affect me if I already have a War Disablement Pension?**
If you receive a War Disablement Pension (for an injury or disablement that occurred before 6 April 2005) this new scheme will not affect you. Your existing war pension will continue to be paid by the SPVA and updated each year.

If you have not yet claimed but your deafness (or any other disability) was caused by service before 6 April 2005, then you can still claim a war disablement pension. Your claim will be assessed under the War Pensions Scheme. For more information, see our factsheet: War Pensions and priority health treatment for veterans.
Can I claim if I am deaf?
Yes – if your deafness is the result of military service or has been worsened by military service since 6 April 2005. Your deafness does not have to be caused by active service or combat for you to qualify. If your hearing loss was caused by, for example, an injury sustained during a training exercise, or by an ear infection contracted as a result of service, you can still claim.

The tariff is a list of injuries and disabilities. Different levels of hearing loss are defined in it, and they range from severity level 5 to 13.

- ‘Total deafness in both ears’ ranks on a scale of 5 in the tariff. Total deafness is defined as ‘bilateral average hearing threshold level is 90dB or more, averaged over 1, 2 and 3 kHz, as measured by appropriate calibrated equipment meeting British Standards, operated by trained staff, and using quality assured pure tone audiometry’.
- Bilateral permanent hearing loss of more than 75dB averaged over 1, 2 and 3 kHz is paid a level 6 award.
- Bilateral permanent hearing loss of between 50-75dB averaged over 1, 2 and 3 kHz is level 8.
- A blast injury to ears (with no mention of permanent hearing loss) is at level 13.

How do I make a claim?
If you are medically discharged out of the services and you haven’t had an in-service AFCS claim for your Principal Invaliding Condition, then a claim under the compensation scheme will be automatically assessed. Otherwise you will need to fill in a claim form. You can download one from www.veterans-uk.info or ask the SPVA for a copy (see page 7). Most ex-service organisations will also help you with completing your claim form.

Is there a time limit for claiming?
Yes. Ordinarily, you must claim within seven years from the day:

- The injury occurred.
- Your condition was made worse by service.
- You first sought medical advice for an illness contracted through service.
- After retirement or when you leave the services.

Whichever is the earlier of the above dates will apply.

The Scheme covers a number of ‘late onset illnesses’ where a condition may be caused by service but only presents itself clinically after some time. The time limit for claiming in these circumstances is three years from when you first seek medical advice in relation to the illness. The government, based on generally accepted expert medical and scientific advice and evidence, does not accept that hearing loss falls into this category. However, Action on Hearing Loss and other charities have campaigned for hearing loss claims to be accepted under the late onset illness rules.
How is my claim decided?
The SPVA will get details about your service the incident or circumstances that you say has caused your hearing loss and copies of relevant medical records. The SPVA decision will be based on this evidence, with advice from medical experts as necessary.

Will my award be reviewed?
No. For all categories of injury the AFCS aims to make full and final awards with no regular routine review procedure. The tariff descriptors of each injury or illness are designed to take into account the normal expected clinical course of a condition over a life-time. However, if your condition is not stable, the agency can make an interim award for up to two years. Your award will be re-visited after this time and a final award will usually be possible, while exceptionally if the prognosis is not clear, further interim award made.

You can apply for an award to be reviewed up to 10 years after it was made, but you have to show that there has been an ‘unexpected or exceptional’ worsening in your condition.

How is my Guaranteed Income Payment (GIP) calculated?
The Guaranteed Income Payment (GIP) is based on the individual’s age at last birthday and their salary at the time they leave service. The calculation of GIP uses this data, along with a series of assumptions, to determine the lifelong loss of earnings the individual is likely to face in terms of both salary and pension.

If your injury is assessed as tariff level:
- 1-4 (band A) you will receive 100% of the maximum GIP
- 5-6 (band B) 75% of the maximum GIP
- 7-8 (band C) 50% of the maximum GIP
- 9-11 (band D) 30% of the maximum GIP.

Can I claim benefits as well as my GIP?
Yes. You will be able to claim other social security benefits such as Disability Living Allowance (DLA) or Attendance Allowance based on your disability. You can also claim Incapacity Benefit or Employment Support Allowance (ESA) if you are incapable of work because of illness or disability, or Jobseeker’s Allowance if you are looking for work.
Do I have to pay national insurance contributions to get a compensation scheme payment?
No. All scheme payments are non-contributory, which means that you do not need to have paid national insurance contributions to get them.

Is a compensation scheme payment means-tested?
No. Your level of income or savings does not affect your claim.

How does a compensation scheme payment affect my other benefits?
If you get a compensation scheme payment it may affect your other social security benefits:

- Your lump sum payment will be considered as capital in the calculation of means-tested benefits (income-based Employment and Support, Jobseeker’s Allowance, Income Support, Independent Living Fund, Housing Benefit and Council Tax Benefit) and may reduce the amount of benefit you are entitled to. The lump sum is counted as capital if not put into a trust - there are some capital disregards if the lump sum is put into a trust. If you (or your partner) are over the age of 60 the value of the lump sum will not count as capital if you claim Pension Credit.
- Your Incapacity Benefit or Employment and Support Allowance will be reduced if you receive an occupational pension (or GIP). Your entitlement to these benefits will also be affected by the amount of capital you have. Incapacity Benefit is now being phased out. By 2014 everyone on the old form of benefit will be transferred to income-based Employment Support Allowance.
- A GIP can be paid in addition to means-tested benefits, such as Income Support, Jobseeker’s Allowance, Pension Credit, Working Tax Credit, Child Tax Credit, Housing Benefit and Council Tax Benefit. The first £10 of your GIP is not counted as income when calculating means-tested benefits. Some local authorities may disregard the full value of your GIP when working out your Housing Benefit and Council Tax Benefit. Seek advice if your GIP reduces the amount of Housing Benefit or Council Tax Benefit you receive.

What if I disagree with a decision?

Reconsideration
If you disagree with the decision on your claim, you can ask for it to be looked by a different decision-maker within the SPVA. If extra information about your condition has come to light since the original decision, then you can present it at this time. You have twelve months from the date of decision to ask for your claim to be reconsidered. You do not have to ask for reconsideration before making an appeal. If you appeal, a reconsideration forms the first part of the process.

Appeals
You have the right to appeal to an independent tribunal. This is made up of three people – a legally qualified chair, a doctor and an ex-service person. You have twelve months from the date of a decision to make an appeal.
If you disagree with the tribunal’s decision, you can appeal to the next level of tribunal. Leave to appeal (i.e. permission) will only be granted if you can show that the tribunal made an ‘error of law’. When you are challenging a compensation scheme decision you can get specialist advice from an ex-service organisation such as The Royal British Legion.

What is priority health treatment for veterans?

In 1953, hospitals run by the Ministry of Pensions for the treatment of war pensioners were transferred to the NHS. The government at the time gave an undertaking that there would be priority examination and treatment for war pensioners in NHS hospitals. However, this was only ‘for the condition or conditions for which the war pensioners received a pension or gratuity.’

However, as a result of our campaign for deafened veterans, the veterans’ minister, Derek Twigg, announced in parliament in June 2007 that priority treatment now applies to all medical conditions due to service, ‘irrespective of whether they result in a pension.’ For more information, see our factsheet War Pensions and priority health treatment for veterans.

Where can I get further information?

The Royal British Legion
Gives help and advice to ex-service personnel and covers England, Wales, Northern Ireland and the Republic of Ireland.
199 Borough High Street, London SE1 1AA
Telephone 08457 725 725 Monday to Friday, 10am-4pm Fax 020 3207 2218
www.britishlegion.org.uk

The Royal British Legion Scotland
Gives help and advice to ex-service personnel in Scotland.
New Haig House, Logie Green Road, Edinburgh EH7 4HR
Telephone 0131 557 2782 Fax 0131 557 5819
info@rblscotland.org www.rblscotland.org

Service Personnel and Veterans Agency (SPVA)
Contact the SPVA for advice, help, information or a copy of their leaflet Your Compensation Scheme Explained. The Veterans Welfare Service (VWS) has local offices that give advice, guidance and practical help to war pensioners and war widows/widowers.
Norcross, Blackpool FY5 3WP
Free helpline 0800 169 22 77 Textphone 0800 169 34 58 Fax 01253 330561
www.veterans-uk.info

Acknowledgment

Thanks to Marie-Louise Sharp, Policy Adviser – Health and Care, at The Royal British Legion for her kind assistance in the preparation of this factsheet.
Further information from Action on Hearing Loss
Our helpline offers a wide range of information on many aspects of hearing loss. You can contact us for further copies of this factsheet and our full range of factsheets and leaflets – see the cover page for contact details.

Action on Hearing Loss Information, July 2012

The Royal National Institute for Deaf People. Registered Office: 19-23 Featherstone Street, London EC1Y 8SL.
A company limited by guarantee registered in England and Wales No. 454169, Registered Charity Numbers 207720 (England and Wales) and SC038926 (Scotland).