

Research Briefing

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Armed Forces Compensation Scheme: Quinquennial Review 2023

Summary

- 1 Relevant legislation and guidance
- 2 General themes of the review
- 3 Overview of recommendations

Number

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Summary

Current and former armed forces personnel can claim compensation for any injury or illness caused, or made worse by, service. Family members may claim for compensation for personnel whose death was caused by service.

The Armed Forces Compensation scheme

The armed forces compensation scheme (ACFS) provides a lump sum payment for pain and suffering. For those who suffer significant loss of earning capacity, the scheme also offers a regular tax-free ‘Guaranteed Income Payment’ (GIP), payable for life. It is a no-fault scheme which means payment is made without admitting fault.

An explanation of what the scheme does, eligibility, types of awards and criticisms of the scheme can be found in Commons Library briefing [The Armed Forces Compensation Scheme](#) (CBP-7923).

Quinquennial review of the scheme

The scheme was introduced in 2005 and is subject to a formal quinquennial review (meaning it takes place every five years). On 17 July 2023 the Government [published the second quinquennial review](#).¹

The review identifies a perceived lack of empathy on the part of the Ministry of Defence in making decisions, inconsistency and unfairness within the scheme, inefficiency, inflexibility and a lack of transparency and independence. Most claimants told the review that they felt [the relationship between claimants and their caseworkers “was an adversarial one”](#).

¹ [HCWS956](#), 17 July 2023; MOD, [Quinquennial Review of the Armed Forces Compensation Scheme 2023](#), 17 July 2023

The Government's response to the review

The Government [published its response](#) to the review on 21 March 2024.²

The Government accepted recommendations to improve communication of the scheme, and that some of the recommendations would inform or be absorbed into the annual review of JSP 765, the Armed Forces Compensation Scheme Statement of Policy, which is due to be completed by the end of 2024.

The Government also said it would consider taking forward some recommendations that require legislative changes during the 2024-25 legislative cycle.

Some of the issues raised would be met by the new self-service portal for claimants that the Ministry of Defence (MOD) expects will be delivered during 2024 and 2025. The MOD said this should enable claimants see real time updates on their claim and enable direct messaging between claimant and caseworker.

However, the Government rejected some of the review's main recommendations, including those relating to the method of calculating awards including the GIP (Guaranteed Income Payment), changing time limits and redesigning the caseworker workplan.³

About this paper

This briefing was first published in November 2023 to summarise the general findings and main recommendations of the Quinquennial Review.

The briefing was updated in April 2024 to reflect the Government's response.

This briefing does not discuss all 67 recommendations made by the quinquennial review; rather, it focuses on the main findings and those recommendations that would require legislative changes. A full list can be found in the [summary of recommendations](#) in the review and in the [Government's response to the review](#).

² MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

³ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

1

Relevant legislation and guidance

The Government published the independent [quinquennial review of the Armed Forces Compensation Scheme 2023](#) on 17 July 2023.⁴ The review makes 67 recommendations in a 155-page report.

Dr Andrew Murrison, the Minister for Defence People, Veterans and Service Families, said at the time of publication that the Government's response will be published later in the year.⁵ The response was published on 21 March 2024.⁶

Secondary legislation and guidance

Several recommendations involve amending secondary legislation. The scheme was introduced by the [Armed Forces \(Pensions and Compensation\) Act 2004](#), and the detailed rules are in [The Armed Forces and Reserve Forces \(Compensation Scheme\) Order 2011](#) (SI 2011/517), as amended.⁷ This is referred to as the Order in the review.

Guidance to the scheme is contained in Joint Service Publication 765 [Armed Forces Compensation Scheme Statement of Policy](#).

1 The Independent Medical Expert Group

Both the review and the Government's response reference the [Independent Medical Expert Group](#) (IMEG). This group provides specialist advice to the Ministry of Defence on the medical and scientific aspects of the Armed Forces Compensation Scheme (AFCS). The group has [examined specific issues in its reports](#), for example hearing loss, injuries to genitalia and mental health. In its response to the review, the Government indicated IMEG is currently working on its 7th report, which is expected in 2024.⁸

⁴ [HCWS956](#), 17 July 2023; MOD, [Quinquennial Review of the Armed Forces Compensation Scheme 2023](#), 17 July 2023

⁵ [HCWS956](#), 17 July 2023

⁶ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024; [HCWS361](#), 21 March 2024

⁷ This replaced [The Armed Forces and Reserve Forces \(Compensation Scheme\) Order 2005](#) SI 2005/439), which was in force from 6 April 2005 to May 2011

⁸ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

2

General themes of the review

This section reflects the review's general findings and identifies some of the main changes proposed by the review. It also incorporates the Government's response to these proposals.

The review finds the scheme appears to work well where a claim is made for an acute injury or illness (for example an injury or illness from which the claimant recovers with little or no lasting side effects), and claims pertaining to death attributable to service.

However, the review finds that the vast majority of the issues raised concern the handling of complex cases by the MOD. The review found that "it is those with injuries with longer term impacts, illnesses and disorders for whom it appears the Scheme is least effective if not detrimental."⁹

The review concludes the objectives of the scheme were not being met because there is:

- A perceived lack of empathy on the part of the MOD in making decisions.
- Inefficiency with regard to the effective but fair use of resources.
- Inconsistency (therefore, unfairness) within the Scheme.
- A lack of effort to ensure and safeguard transparency and independence in both the policy and decision-making processes.
- A lack of resilience as the Scheme is insufficiently flexible in its ability to incorporate developments.¹⁰

The review also criticises Veterans UK, the MOD agency, whose helpline agents "are specifically trained to act as a barrier between claimants and their caseworkers".¹¹

⁹ MOD, [Quinquennial Review of the Armed Forces Compensation Scheme 2023](#), 17 July 2023, para 1.32

¹⁰ MOD, [Quinquennial Review of the Armed Forces Compensation Scheme 2023](#), 17 July 2023, para 1.34, as summarised in para 13.4

¹¹ [Quinquennial Review 2023](#), para 4.47

2.1

Different expectations of purpose of the scheme

Recommendation 4: Rename the scheme to remove the word compensation.

The review finds a disparity in expectations between officials and claimants about what the scheme will provide. This results in an adversarial relationship between claimants, who feel the MOD is doing less than it has committed to, and officials who feel that claimants do not understand the scheme. The review says the fault lies with neither party but rather a lack of clarity on the purpose of compensation.¹²

The review finds that many officials administering the scheme “considered that compensation is due for injuries of a specific nature that are, on the balance of probabilities, predominantly attributable to service” and that compensation is not intended to replace income.¹³

However, the review finds that claimants have different expectations; namely, that the armed forces will ‘take care’ of any needs arising from an injury, illness, a disorder, or death in service, and the description of the Guaranteed Income Payments indicates the payment of an income stream. The review says that “the experiences of many claimants that participated in this review are coloured by the MoD falling short of these expectations.”¹⁴

This informs the first recommendation, which suggests agreeing a definition of compensation that reflects the intent of the AFCS and provides clarity about what can be expected of the scheme.

Removing reference to compensation

The review argues that the label ‘compensation’ is a “misrepresentation of AFC awards”, in that it gives the impression of an individual or organisation making a claim against another for wrongdoing, which contributes to a perception of an adversarial relationship between the MOD and claimants under the scheme.¹⁵ The review suggests AFCS awards are better described as an employee benefit, in that the “the claimant is simply accessing a benefit they are entitled to under their terms of service.”¹⁶

Recommendation 4 suggests the scheme should be renamed to exclude the word ‘compensation’ and replaced with, for example, the Armed Forces Injury Scheme.¹⁷

The Ministry of Defence (MOD) has rejected this suggestion, explaining that personnel are not entitled to awards by virtue of their terms and conditions

¹² Quinquennial Review 2023, para 2.11

¹³ Quinquennial Review 2023, para 2.9

¹⁴ Quinquennial Review 2023, para 2.8

¹⁵ Quinquennial Review 2023, para 2.25

¹⁶ Quinquennial Review 2023, para 2.28

¹⁷ Quinquennial Review 2023, para 2.29

of service, and that the AFCS is a statutory scheme and is defined in law as a compensatory scheme.¹⁸ The MOD accepts one part of recommendation 4, which is to ensure the consistent application of legal terms in JSP 765 as part of its review of the guidance in 2024.¹⁹

Applying No Fault to both MOD and claimant

The AFCS is a no-fault scheme. JSP 765 explains that this means:

[...] receiving an AFCS award does not indicate there has been negligence on the part of MOD in the injury, illness or death being sustained; in making a payment the MOD is not admitting any form of liability.²⁰

This means that when assessing a claim, the MoD is not determining whether to accept liability for an injury, illness, disorder or death, but whether it can be predominantly attributed to the claimant's service.²¹ Claimants can pursue a separate negligence case in the civil courts if they believe the MOD is at fault, separate to the AFCS process.

However, the MOD can withhold up to 40% of benefit "where the negligence or misconduct of a member or former member contributed to that person's injury or death" ([Article 41 of Order 2011](#)). The review says this is "unnecessary at best and inequitable at worst". The review argues that if an individual has put themselves in the situation which has caused the injury, illness, disorder, or death (for example by being inebriated), then that injury is not caused by their service. The review says article 41 is unfair to claimants as it does not equally apply the No Fault principle:

Article 41 only serves to provide the MoD with the option to reduce the compensation payable where an injury, illness, disorder or death is proven to be service caused by making an attribution of fault but does not provide the claimant with the ability to claim more compensation as a result of the MoD's negligence without submitting to an independent court.²²

The review recommends Article 41 "should be expired" (recommendation 3) and the implications of a 'no fault' scheme for both the MOD and claimants should be explicit in all documents relating to the scheme (recommendation 2).²³

The MOD has rejected this suggestion, stating that Article 41 is an "important provision which recognises the obligations on the service person to comply with instructions and follow guidance and rules."²⁴ The MOD said the provision is used very rarely, with 44 cases, or 4 per year, since 2012, and

¹⁸ Armed Forces (Pensions and Compensation) Act 2004

¹⁹ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

²⁰ JSP 765 para 5.12

²¹ Quinquennial Review 2023, para 2.13

²² Quinquennial Review 2023, para 2.22

²³ Quinquennial Review 2023, para 2.22

²⁴ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

that it is only used when there is “compelling evidence of negligence or misconduct.”²⁵

²⁵ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

3

Overview of recommendations

The review makes recommendations focused on four key objectives: fairness, simplicity, empowerment and learning. While the main body of the review identifies recommendations in numerical order, in section 13 the review collates recommendations under these objectives. This paper reflects that approach, summarising some of the main recommendations and highlights those that would require amending the existing legislation ([The Armed Forces and Reserve Forces \(Compensation Scheme\) Order 2011](#)). The responses of the Ministry of Defence (MOD) are included in the relevant sections.

This briefing does not discuss all 67 recommendations; a full list can be found in the [summary of recommendations](#) in the report, and in the [Government's response to the review](#).

3.1

Objective 1: Fairness

The majority of recommendations in the report, the review says, are focused on ensuring the overall fairness of the policies and operational processes associated with the scheme. This is because “as the MoD are the administrators of the Scheme, where there are imbalances and biases, these tend to favour the MoD and work against the claimant, especially those who are most vulnerable.”²⁶ The review says the result is “most egregious” in the case of claimants suffering from mental disorders and whose “conditions are aggravated by unfairness” in particular aspects of the scheme (see box 2).

²⁶ Quinquennial Review 2023, para 13.6

Injury versus impact: Calculating Guaranteed Income Payments and lump sums

Recommendations 35 to 39 focus on amending how Guaranteed Income Payments (GIP) and lump sum awards are calculated. The review recommends establishing a clear division between the purposes of the lump sum award versus that of the GIP.

“Most recipients are unable to understand exactly how their award is calculated and thus whether it is a fair outcome.”

Quinquennial review 2023

The review finds the scheme is not flexible enough to reflect fully the impact of the injury as well as the injury itself. The scheme does not allow caseworkers to increase the award amount in cases “where the effect of a series of injuries in sum have a much greater impact than can be predicted if each injury is assessed in isolation.”²⁷ It gives as an example, an individual might learn to adapt to the amputation of a leg, but it will be much harder if they also suffer a balance disorder resulting from hearing loss.²⁸

The scheme is also too narrow, according to the review, and does not fully allow for the psychological, family, social and occupational impact on the claimant to be assessed and included in the calculation.²⁹

The review finds the complexity of the calculation “means that most recipients are unable to understand exactly how their award is calculated and thus whether it is a fair outcome.”³⁰

Distinguishing between the purposes of the lump sum and GIP awards, the review says, will provide clarity that acute injuries (those with short-term effects) attract a lump sum only and those with persistent effects attract a GIP in addition to a lump sum, and increase transparency in GIP awards.³¹

Lump sum awards should be made solely on the basis of the injury, illness or disorder (recommendation 35)

The review recommends lump sum awards should be made “solely on the basis of the nature of the injury, illness or disorder and the resulting mechanical limitation, not the impact on the recipient’s day-to-day life” (recommendation 35).

To enable a shift to injury focused descriptors, the current tariff descriptors should be amended to focus on the injury, recovery time, extent of medical intervention and the functional, physical loss caused by the injury (recommendation 36).³²

²⁷ Quinquennial Review 2023, para 7.13

²⁸ Quinquennial Review 2023, para 7.13

²⁹ Quinquennial Review 2023, para 13.8

³⁰ Quinquennial Review 2023, para 7.11

³¹ Quinquennial Review 2023, para 7.22

³² The ACFS is a tariff-based compensation scheme. Injuries are categorised into tables (e.g. burns, mental disorders, amputations), which are then allocated to tariff level depending on the severity of the injury. There are 15 tariff levels for each category of injury.

The review also recommends amending article 72 of the Order 2011 to allow for regular lump-sum uprating to take into account inflation and other cost of living factors (recommendation 66).

The MOD accepted that it would be timely to consider uprating lump sums during 2024/25 and also consider a standard process and time period for this to happen in future years.³³

Guaranteed Income Payments should be based on the sum pact of the injuries (recommendation 37)

The scheme provides offers a regular tax-free 'Guaranteed Income Payment' (GIP), payable for life, for those who suffer significant loss of earning capacity as a result of their injury or injuries.

However, the review finds that the current approach does not take into account the different impact the same injuries can have on two different people.³⁴

The review recommends GIP awards "should be based on the sum impact of the injuries on the recipients psychological, family, social and occupational life, irrespective of the nature or number of injuries they have suffered" (recommendation 37). They should be calculated independently from the lump sum tariff tables (recommendation 38).

The review says this approach is similar to that taken in Australia, Canada and the United States.³⁵

The review also finds that the current way the GIP is calculated – estimate the average income for the remainder of an individual's lifetime, including their salaried working life and pension income – disadvantages those furthest away from retirement. It suggests devising a second set of GIP factors to enable a GIP to allow for income to be distributed differently over a lifetime, for example by providing a higher income up to retirement, when an individual might be buying a home or starting a family, and a reduction after retirement (recommendation 39).³⁶

Government response: rejected recommendations 35 to 38

The MOD has rejected all these recommendations. It said that "no change" should be made to current arrangements for calculating awards for AFCS claims, which it said, "align with the principles of the scheme and are as fair as possible".³⁷ The MOD explained that a detailed assessment of these recommendations (35 to 38) found the proposals "carry a high risk of inconsistency and inequity in awards" and could result in a more complex

³³ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

³⁴ Quinquennial Review 2023, para 7.19

³⁵ Quinquennial Review 2023, para 7.21

³⁶ Quinquennial Review 2023, paras 7.27 to 7.38

³⁷ MOD, [The Government's response to the Quinquennial Review of the AFCS](#), 21 March 2024

system which could lead to additional requirements for evidence and increased timescales. Their analysis concluded that the recommendations “are likely to result in a system which is counter to the core principles on which the AFCS has been designed.”³⁸

The MOD also rejected recommendation 39 because, it said, the proposed system “would be more complex to administer and to explain to claimants”. The Government also said reducing income in retirement could risk financial hardship later in life.³⁹

2 Use of interim payments for mental health conditions

The review finds that claimants with mental health conditions (described as mental disorders in [Order 2011](#) and the guidance) may find their condition worsen because of their experience with the scheme.

The review says that the AFCS is intended to prioritise full and final awards, rather than interim awards, to mitigate the detrimental effects of uncertainty on ill-health and recovery.

However, it finds that nearly half, or 44%, of interim payments were made for claims pertaining to mental disorders between 2017 and 2022. The review says that the effects of uncertainty are “particularly pronounced and aggravating for those with mental disorders” and yet “it is those recipients who are likely to experience prolonged uncertainty”. The review finds interim awards in mental disorder claims can take anywhere between a year and five years to finalise. In some cases, this delay and instability “perversely results in the worsening of the recipient’s condition.”

The review recommends shortening the time for which interim awards can be in place from 24 to 12 months and require a review after 12 months. This would require amending Article 52 of the Order 2011 (recommendation 48).⁴⁰

In its response, the MOD said that reducing the two-year interim award period is “unlikely to be beneficial to claimants.” However, it also indicated that issues relating to mental health claims are currently being reviewed by IMEG in its 7th report, which is expected in 2024. The Government said it would wait to review IMEG’s findings before making a decision on recommendation 48.⁴¹

The review also finds a number of indications that “mental disorders are not treated as equal in gravity and impact to physical injuries, illnesses, and disorders and that they are considered to be less verifiable for the purposes of the decision-making process.”⁴² The review makes several recommendations

³⁸ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

³⁹ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

⁴⁰ Quinquennial Review 2023, paras 8.23 to 8.25

⁴¹ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

⁴² Quinquennial Review 2023, para 8.11

relating to mental disorders, including expanding the number of descriptors in table 3 - mental disorders ([Schedule 3, Order 2011](#)) (recommendation 45).

The MOD said recommendation 45 (and 46) should be referred to IMEG for consideration as part of their 8th report.⁴³

Burden of proof

The review finds there is a lack of clarity between the Order and the guidance over who is responsible for collecting evidence of an injury. The review recommends amending Article 60 of Order 2011 to place a legislative burden on the MOD to collect all knowable evidence to substantiate a claim (recommendation 64).⁴⁴

The MOD disagreed, saying it believes the current practice is “compliant with Article 60” as it stands.

The review also finds an imbalance between claimants, who find it “exceedingly difficult to hold the MOD to account for failures to fulfil their purported obligations” and the MOD, which is able to penalise claimants by closing a claim, delaying a decision or making an interim award. Recommendations 9, 14 and 15 are designed to address this.⁴⁵

The MOD accepted parts of recommendation 9 (about creating a non-exhaustive checklist of the sort of evidence that might be required) but rejected the suggestion to determine an ideal window of time to make a claim. The MOD also said it had “commenced an initiative to review and improve communication with claimants” and put in place a way to determine if a case could be potentially complex (recommendation 14). The MOD said it would not take forward recommendation 15 relating to the management of caseworker time.⁴⁶

3.2

Objective 2: Simplicity

The review says simplicity of a scheme is central to transparency and accountability. This group of recommendations removes what it describes as “needless limitations” to eligibility and the right to request a review of an award.⁴⁷

⁴³ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

⁴⁴ Quinquennial Review 2023, para 10.10

⁴⁵ Quinquennial Review 2023, para 8.1

⁴⁶ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

⁴⁷ Quinquennial Review 2023, para 13.19

Recommends removing all time limits for claims.

Removing time limits for claims

The review says it could find no reason, beyond reducing the administrative burden, for the “myriad of time limits and prejudicing factors which adversely affect claimants who may otherwise have an injury sufficiently severe and predominantly attributable to service on the balance of probability.”⁴⁸ The review says the impact on individuals who have a legitimate claim but fall foul of the time limits “can be devastating.”⁴⁹ Recommendations 54, 55, 56 and 57 are therefore intended to remove “needless limitations to eligibility”.⁵⁰

All time limits to submitting a claim and those associated with claims for worsening of an injury and death attributable to service “should be removed and eligibility of a claim should be based solely on the strength of the evidence of attributability” (recommendation 54).⁵¹

The MOD addressed these recommendations in the executive summary of its response. The MOD rejects changing or removing time limits, but said it would work on improving communications to help claimants better understand the current system and the reasons for certain provisions.⁵²

The review also seeks to simplify the criteria for requesting a review by focusing on the deterioration of the injury, illness or disorder. Recommendation 60 would enable recipients the opportunity to request a review where their condition has significantly deteriorated, or they have a diagnosis of a second injury, illness or disorder caused by a condition they are in receipt of an award for. Replacing Articles 55, 56 and 57 of the Order with a single article would achieve this. Recommendation 61 limits how often a review can be requested to every five years.⁵³

The MOD rejected both of these recommendations. It argued the intention is that the award “provides a degree of financial certainty” and allows an individual to “move forward and focus on their future”.⁵⁴ It said that, rather than changing the current provisions, it would improve communications to help claimants understand the review system.

⁴⁸ Quinquennial Review 2023, para 13.20

⁴⁹ Quinquennial Review 2023, para 13.21

⁵⁰ Quinquennial Review 2023, para 13.18

⁵¹ Quinquennial Review 2023, para 9.18

⁵² MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

⁵³ Quinquennial Review 2023, para 13.23 and 13.39

⁵⁴ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

3.3

Objective 3: Empowerment

Most claimants told the review that they felt the relationship between claimants and their caseworkers “was an adversarial one.”⁵⁵ The review makes several recommendations intended to improve the claimant-caseworker relationship and improve the delivery of the scheme by empowering the two key actors in the claims process:

- claimants must be empowered to have agency in their claims process and
- caseworkers to confidently use their judgement in making the correct decision within the parameters of the Scheme.⁵⁶

This includes improving communication between claimants and caseworkers and greater clarity for claimants on the information required by the MOD. This, the review says, “will enable claimants and recipients to actively engage in the process and hold the MoD to account where it is not fulfilling its obligations at any stage.”⁵⁷

Veterans UK helpline

The review discusses the experiences of claimants who are seeking information on the status of their claim from caseworkers.

The Veterans UK helpline received 12,428 AFCS queries between February 2022 and February 2023.

Currently, such enquiries are directed to the general Veterans UK helpline. The helpline received 12,428 AFCS queries between February 2022 and February 2023.

However, the review says that Veterans UK agents “are specifically trained to act as a barrier between claimants and their caseworkers and are directed to answer as many of the callers’ queries as possible, including those that are case specific.” The review finds this approach lacks empathy and can aggravate the suffering of the claimant.⁵⁸

The review makes a number of recommendations specifically intended to support caseworkers, for example by having dedicated time to respond to calls put through from the helpline (recommendation 15), capping caseloads (recommendation 17), clarifying the role of medical advice in decision-making (recommendations 17 to 20), and to be supported with adequate training and professional development tools (recommendations 21, 22, 23 and 24).

⁵⁵ Quinquennial Review 2023, para 4.43

⁵⁶ Quinquennial Review 2023, para 13.24

⁵⁷ Quinquennial Review 2023, para 13.25

⁵⁸ Quinquennial Review 2023, paras 4.51 and 4.52

The MOD addressed recommendations relating to caseworkers in its executive summary, stating that “recommendations to redesign the caseworker workplan are not being taken forward.”⁵⁹ It did accept many of the recommendations relating to training and professional development.

3.4 Objective 4: Learning

The review recommends setting up routine data collection and analysis processes and forums to discuss concerns with key stakeholders (recommendations 29 and 30).⁶⁰

The MOD agreed with these recommendations and said they were either already in place or should be assisted by the new self-service portal for compensation claims that is being developed in 2024 and 2025.

The review also discusses the difference between the AFCS and the War Pensions Scheme (WPS), pre-empting any criticism that the review’s recommendations might appear to be a return to the WPS. Here the review is particularly referring to its recommendations on GIPs, time limits and right to requests for review. The review instead says it has sought to learn from the provisions of the WPS in making the recommendations. The review says there remains a “multiplicity of limitations to eligibility and differences in the assessment process” that the AFCS remains “significantly different” from the WPS.⁶¹

The MOD addressed this in response to recommendations 60 and 61:

Moving back to a War Pension Scheme style system would effectively go against the principles of the AFCS and erode its intended benefits. For all these reasons, the Department believes that rather than changing the current provisions, there is a need for better communication to help claimants understand the review system.⁶²

3.5 Legislative action

The MOD rejected many of the review’s recommendations that would have required legislative changes.

The MOD did accept a recommendation to amend the Order “to ensure reconsiderations can only be of the material the original decision was based on” (recommendation 12). The MOD said it will assess the legislative changes

⁵⁹ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

⁶⁰ Quinquennial Review 2023, para 13.30

⁶¹ Quinquennial Review 2023, para 13.35

⁶² MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

required during 2024, and will consult with relevant parties to “ensure any changes are supported and can be properly implemented.”

The review recommended the definition of “functional limitation” ascribed to tables 3 and 4 be redrafted to reflect the definition in Article 5(3) of the Order 2011 (recommendation 41). The MOD said it will review the policy intent behind the tariffs in tables 3 and 4 and consider whether any changes are needed in this legislation.⁶³

The MOD said that, during the 2024/25 legislative cycle, it will “review the current tariff levels at which death benefits are payable to decide whether they should be expanded” (recommendation 55).

The MOD will also consider how to take forward in legislation during 2024/25 recommendation 63, to amend Article 59(2) of the Order to confer the right upon the Secretary of State to review an award where evidence of fraud has been found.

3 IMEG future reports

The MOD said some of the issues raised by the review will be addressed in the Independent Medical Expert Group’s (IMEG) 7th report, which is expected in 2024.⁶⁴ These include:

- Issues relating to mental health claims and awards (recommendations 47, 48, 51, 52, 53 and 58)
- An audit of spanning cases (recommendation 67). Spanning occurs when it is not clear whether the injury, illness or disorder should be compensated under the rules of the AFCS, which came into effect in April 2005, or the War Pension Scheme, which applied before that date.

The MOD also said it would recommend the following issues be considered for IMEG’s 8th report, work on which is due to start in 2024:

- Expansion of the term mental disorders to be expanded to recognise instances of less severe mental disorders or those which manifest for shorter periods of time (recommendation 45)
- More clearly define the term ‘substantial recovery’ (recommendation 46).

⁶³ The AFCS is a tariff-based compensation scheme. Injuries are categorised into tables (e.g. burns, mental disorders, amputations), which are then allocated to tariff level depending on the severity of the injury. There are 15 tariff levels for each category of injury. The tariff system is designed to deliver consistent awards for injuries of different category but similar severity.

⁶⁴ MOD, [The Government’s response to the Quinquennial Review of the AFCS](#), 21 March 2024

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