



MINISTRY OF DEFENCE
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CLAIMS

ANNUAL REPORT

2006/2007

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INTRODUCTION BY THE CHIEF CLAIMS OFFICER

“The decisions of law courts should never be printed: in the long run, they form a counter authority to the law” - Denis Diderot

This report, our tenth, covers a period that saw another busy period for the claims branch. Overall cash payments were £71.95M. Over the same period receipts of £5.85M were recovered. A detailed breakdown can be found at Annex A.

I am delighted that the cost of claims to the Ministry of Defence is significantly lower than the peak experienced a few years ago. This in part is attributable to a much greater awareness of the type of incidents that might give rise to claims, a heightened awareness of risk without becoming risk averse and sensible preventative measures being put in place.

In addition to our normal core business, and our involvement in legally challenging issues associated with claims emanating from Iraq and Afghanistan, two new large contentious Group Actions have been brought against the MOD. The first involves over 1,000 veterans connected with the British nuclear tests in the late 1950s/early 1960s; the second from approximately 360 veterans who attended trials at Porton Down.

In August we were asked to assist Defence Estates by handling claims associated with the clearance of unexploded ordnance at the former HMS Daedalus site at Lee-on-Solent, Hampshire. The claims, which in general related to business/economic loss, presented my staff with some unique challenges, but the claims project team set up to handle these cases have, at the time of writing, successfully settled 50 claims for £228,000, the funding of which came from the Defence Estates budget. The background to this matter is included later in this report.

The Area Claims Office in Northern Ireland closed on 31 March 2007 with my staff in London taking on the claims handling responsibilities.

In accordance with the MOD's pledge to the Lord Chancellor we continue to use Alternative Dispute Resolution (ADR) in all appropriate cases, particularly in the form of Mediation and Counsel-to-Counsel settlement conferences, as opposed the traditional litigation route.

Risks posed by fraudulent claimants are as real for MOD as they are for the insurance industry. Any cases identified by my staff or those at the claims handling contractors are now routinely passed to the MOD Police.

A competition was held during the period of this report for the renewal of the contracts for the Department's Employer's Liability and Third Party Motor claims. Gallagher Bassett International Ltd (GB) was successful and awarded a contract for handling such claims brought against MOD from 1 May 2007.

I continue to place great importance in ensuring that Claims staff have the appropriate skills and knowledge to meet effectively the challenges of managing compensation claims. This is achieved in the main through a structured series of legal training courses provided by an external legal training provider. However, to develop a better understanding of the Army and gain a flavour of the “sharp end” of their business, arrangements were made in October 2006 for a group of claims handlers and lawyers to attend a combined arms manoeuvre and firepower demonstration.

I commend the 2006/2007 Claims Annual Report to all readers. My objective in publishing the report is to provide an overview of the activities of DS&C (Claims) as well as to highlight the importance to us all of sound risk management to reduce the number of incidents giving rise to claims. The MOD is engaged in extremely hazardous activities and accidents do happen, but some are avoidable. I am not advocating a culture of risk aversion, but one of risk awareness. The alternative is a continuation of incidents, such as those highlighted in this report, the cost of which is not just financial, but includes the suffering and heartache of those who endure the consequences when things “go wrong”.

Additional copies of this report are available from the DS&C(Claims) Focal Point, Zone A, 7th Floor, St George’s Court, 2–12 Bloomsbury Way, London WC1A 2SH (Tel:020 7305 3349/3334 or Fax: 020 7305 4166) Copies can also be found on the Defence Web site, Intranet or supplied on Disk

EXECUTIVE SUMMARY

1. Total DS&C(Claims) cash payments in the year 2006/2007 was £71.95 million. Over the same period receipts of £5.85 million was recovered.
2. Highest claim settled in year was £3.64 million.
3. At 1 April 2007, the total number of new claims lodged in year with DS&C(Claims) or the Department's commercial claims handlers was 4873.
4. 889 Service personnel employer's liability claims were settled at a total cost of £32.9 million.
5. 1348 civilian employer's liability claims were settled at a total cost of £20.7 million.
6. 534 public liability claims were settled at a total cost of £6.89 million.
7. 2972 third party motor claims in the UK were settled at a total cost of £6.9 million.
8. 23 clinical negligence claims were settled at a total cost of £3.0 million.
9. 368 letters of claim have been received from Porton Down veterans
10. 109 letters of claim have been received from nuclear test veterans with a further 962 provisional claimants to be confirmed.
11. ACO North West Europe closed 493 cases at a total cost of £1.021 million
12. ACO Cyprus closed 264 cases at a total cost of £171,000.
13. ACO Northern Ireland settled 184 cases at a total cost of £714,000
14. ACO Balkans settled 44 cases at a total cost of £90,000
15. ACO South Atlantic Islands settled 4 cases at a total cost of £1,714.
16. ACO Iraq settled 238 cases at a total cost of £574,000
17. ACO Afghanistan settled 42 cases at a total cost of £136,000

SECTION ONE

INTRODUCTION

“It is the trade of lawyers to question everything, yield nothing, and talk by the hour”- Thomas Jefferson,

ORGANISATION

1.1 The MOD Claims branch is primarily responsible for processing common-law, non-contractual compensation claims against and on behalf of the MOD at home and abroad. It is not responsible for contractual, quasi-contractual, sales or estates matters. It is headed by the Chief Claims Officer (Band B1) and four staff at Band C1. The Chief Claims Officer reports through DS&C and DGS&S to the Personnel Director. Details of the staffing and work of the Claims branch are at Annex A.

RESPONSIBILITIES

1.2 In addition to being responsible for processing common law compensation claims, Claims branch also has a number of other important responsibilities such as providing claims policy advice, handling some Service personnel employment tribunal claims, handling claims against foreign forces based in the UK and providing advice on insurance and indemnities. It undertakes a variety of secretariat tasks and during the period of this report dealt with a number of Parliamentary Questions (10), Ministerial Correspondence (38), Treat Official Correspondence (47) and Freedom of Information requests (59).

1.3 Area Claims Officers (ACOs) and their staff are located in areas where there is a sizeable defence presence – Afghanistan, the Balkans, Cyprus, Iraq, North West Europe, and the South Atlantic Islands. The Area Claims Office in Northern Ireland closed on 31 March 2007 with Claims branch based in London taking on the claims handling responsibilities. ACOs are accountable to the appropriate Civil Secretary, but have a professional responsibility to the Chief Claims Officer.

1.4 It is important that staff at all levels within Claims branch acquire the skills, knowledge and experience needed to enable them to contribute effectively to the goals of the organisation. Claims staff attend a series of structured specialist training seminars provided by external legal trainers covering all aspects of common law compensation. In recognition of the specialised nature of the work, a functional competence framework sets out the key skills and training required. In addition, staff members have studied for law degrees and diplomas, professional insurance examinations, have qualified as accredited mediators and are members of Chartered Institutes.

POLICY AND PROCEDURES

1.5 When compensation claims are received they are considered on the basis of whether or not the MOD has a legal liability to pay compensation. Where there is a proven legal liability, compensation is paid. To deal with cases on any basis other than legal liability requires difficult subjective judgments to be made that would undoubtedly lead to inconsistency and unfairness.

1.6 The amount of compensation paid is determined by common law principles which, broadly, take account, as appropriate, of an individual's pain and suffering, degree of injury, property losses, past and future financial losses, level of care required. Levels of compensation including these elements can vary greatly depending on an individual's circumstances. Advice is sought, where necessary, from Treasury Solicitor's Department, and our commercial claims handlers' panel solicitors for cases brought in England and Wales; the Crown Solicitor in Northern Ireland; and Morton Fraser Solicitors, the Department's legal adviser in Scotland. Queen's Counsel and junior barristers are also consulted on high profile or complex cases or where a point of law needs to be explored. The overwhelming majority of cases are settled through amicable negotiation without Claimants having to take the MOD to court.

1.7 In accordance with Treasury policy, the MOD does not normally make *ex-gratia* compensation payments in respect of occurrences within the UK. There are, however, a small number of exceptions: i.e. claims arising from military low flying aircraft; claims from volunteers who are injured during research work and for certain miscarriages of justice affecting Service personnel. In certain overseas areas, because of the provisions of the NATO Status of Forces Agreement and other international agreements, the MOD is obliged to consider making *ex-gratia* payments following off-duty torts. Such claims arise from a wide variety of incidents ranging from minor criminal damage to, exceptionally, rape and murder. Whilst there is no legal obligation, each case is decided on its merits. A number of factors are taken into account including: the seriousness of the offence, the practice of the host country in identical circumstances, the degree of financial hardship to the claimant as a result of the incident, the political implications - locally and nationally - on relations with the host country, and the availability and/or financial ability of the wrong-doer to make satisfactory restitution to the claimant.

SECTION TWO

PUBLIC LIABILITY CLAIMS

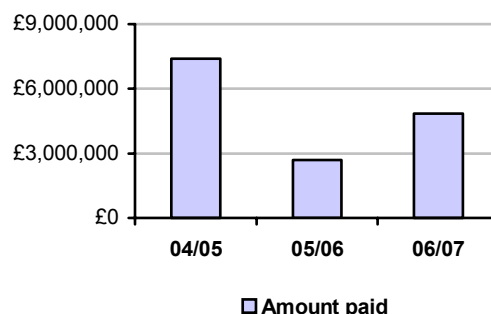
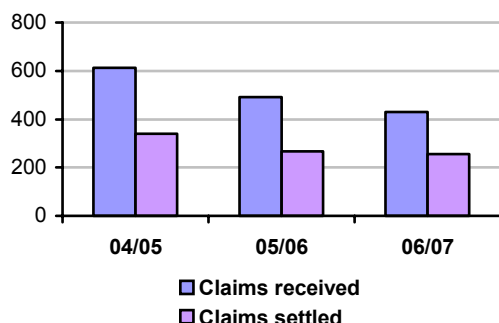
“A good judge doesn’t know the strength of the plaintiff’s case until he’s heard the defence” – William Sheffield

CLAIMS PUBLIC LIABILITY GROUP

2.1 The majority of claims submitted to the Public Liability Group are for personal injury or property damage from members of the public who have either been injured on MOD property or have sustained injuries whilst taking part in the various public relations and recruiting activities run by the three Services e.g. injuries sustained on assault courses.

2.2 Property damage claims usually emanate from personnel working and living in service accommodation who, for example, have had their belongings damaged by the poor maintenance of the properties they occupy. However, the highest property damage claim settled this year was for £90,000 for fire damage at a farm on the Army Training Estate when fodder and machinery was destroyed by a flare. In the main, claims arise as a result of property damaged due to damp from poor insulation, water ingress and moth infestation and vehicles damaged by pot holes, speed bumps and the improper operation of security barriers and ramps at check points. Whilst in excess of 200 claims of this nature were received this year, they are generally small in value, the average claim being settled at approximately £1,000.

	2004/05	2005/06	2006/07
Number of claims received	613	491	429
Number of claims settled	340	266	256
Amount paid	£7.4M	£2.7M	£4.8M



2.3 The number of property damage claims and personal injury claims received has decreased overall this year by some 16% which is in line with the figures

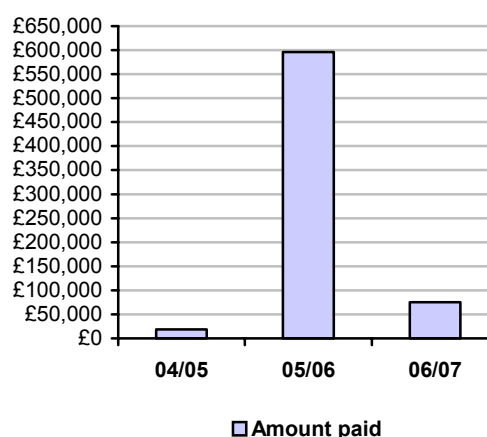
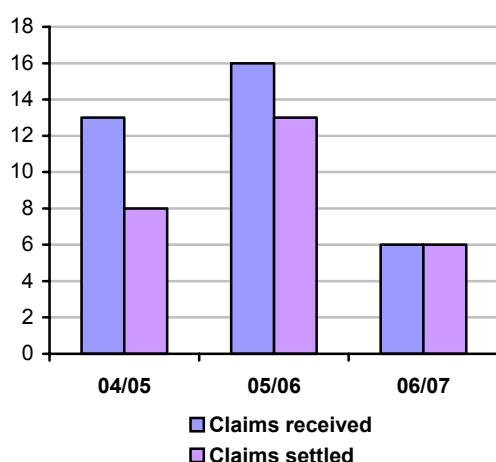
given by the insurance industry which saw a decrease of 15% in 2006 compared to 2005. The number of privately owned vehicle damage claims increased slightly, due to some extent, to the number of vehicles damaged by the gale force winds experienced in December 2006 and January 2007.

2.4 The Public Liability Group continues to handle death and serious injury claims from Iraqi civilians. 22 new claims of this nature were received in financial year 2006/07. Due to the nature and complexity of the claims, their high profile and the fact that two British law firms have been instructed to handle a number of the claims, a decision was taken in 2004 that such claims should be handled by the Public Liability Group to ensure that a consistent approach was taken and the claims handled in accordance with the Civil Procedure Rules. Less serious injury claims (e.g. those resulting from RTAs) and property damage claims continue to be handled locally by the Area Claims Officer in Basra.

PUBLIC LIABILITY CLAIMS – NORTHERN IRELAND

2.5 The Claims Public Liability Group also deals with public liability claims from Northern Ireland provided they are of a political and/or sensitive nature. Claims are normally received from members of the public who have had a dispute with members of the armed forces whilst in support of the Police Service of Northern Ireland (PSNI). There was a marked decrease in the number of claims received this year due to the security normalisation and steadily reducing military presence in Northern Ireland which began on 1 August 2005. However, with effect from 1 April 2007 DS&C Claims will assume responsibility for all new claims emanating from NI due to the closure of the Area Claims Office on 31 March 2007.

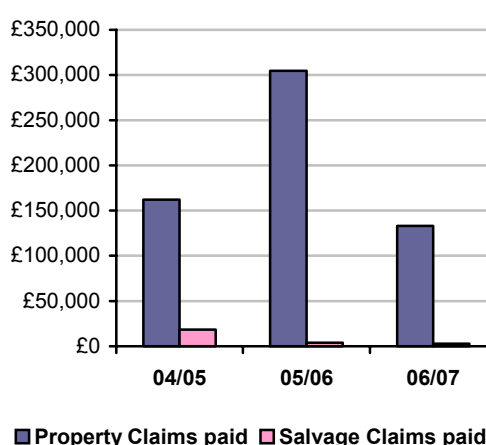
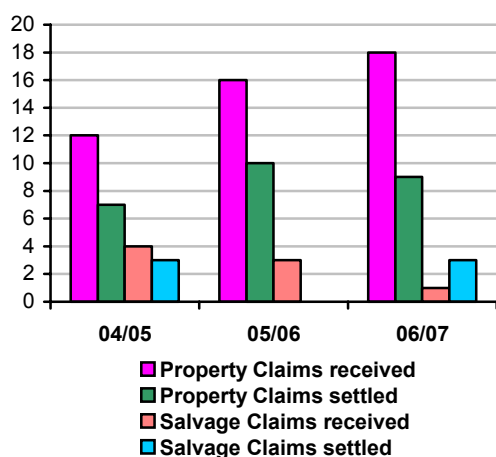
	2004/05	2005/06	2006/07
Number of claims received	13	16	6
Number of claims settled	8	13	6
Amount paid	£18,700	£595,830	£75,000



MARITIME CLAIMS

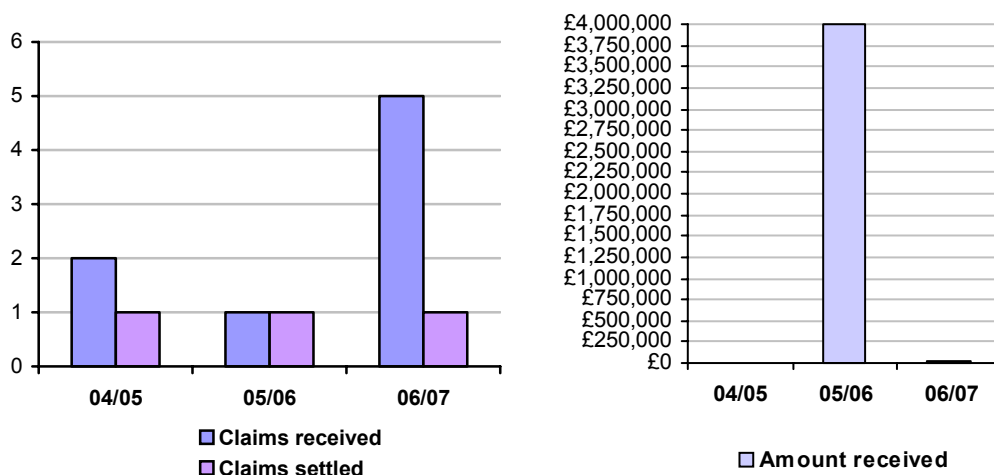
2.6 Maritime claims by and against the MOD result mainly from collisions, oil spillage, gunnery/missile firing incidents, damage to static property, wash damage, fishing gear damage and the salvage and recovery of MOD property. Maritime law is complex and much of the legislation dealing with the law of the sea was enacted more than one hundred years ago.

	2004/05	2005/06	2006/07
Number of property claims received by MOD	12	16	18
Number of property claims settled	7	10	9
Amount paid	£162,051	£304,549	£133,123
Number of salvage claims received by MOD	4	3	1
Number of salvage claims settled	3	0	3
Amount paid	£28,293	£3,881	£2,802



2.7 The MOD provides assistance to ships in distress in UK waters and regularly helps in other parts of the world. If as the result of the assistance given a vessel is salvaged, the Department is entitled to claim salvage based on the value of the ship and its cargo. Part of the amount in salvage is paid to the crew of the assisting ship or aircraft in accordance with the Merchant Shipping Act 1864. It is MOD policy not to claim salvage when life saving has been the main aim of the assistance given. Although uncommon, salvage claims by members of the public for the successful recovery of our property can likewise be made against the Department. The figures for salvage claims reflect the net effect of salvage claims paid by MOD and a successful recovery.

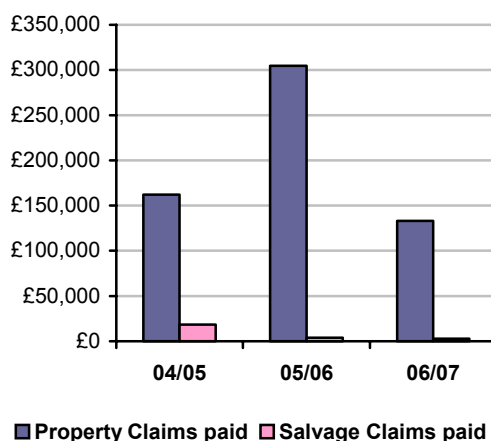
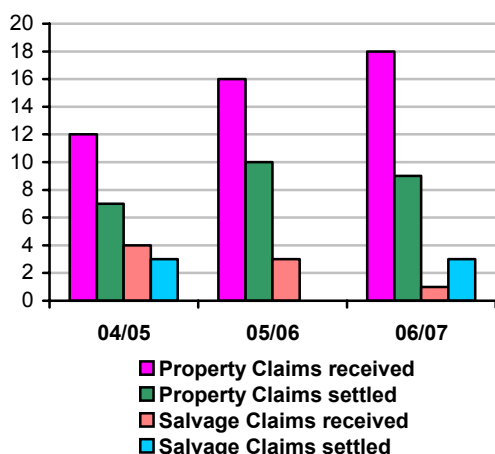
	2004/05	2005/06	2006/07
Number of maritime recovery and salvage claims initiated by MOD	2	1	5
Number of maritime recovery and salvage claims settled	0	1	1
Amount recovered	0	£4M	£23,281



NB: The large sum recovered in financial year 2005/06 was as a result of a collision between a cross-channel ferry and HMS St Albans, a Type 23 frigate.

2.8 In addition to the work undertaken by Claims branch, Flag Officer Scotland, Northern England and Northern Ireland (FOSNNI) and Flag Officer Sea Training (FOST) have delegated authority to settle claims of up to £8,000 per fishing gear claim, £5,000 per collision claim and £1,000 per oil spillage claim.

	2004/05	2005/06	2006/07
Number of claims settled by FOSNNI	20	25	33
Amount paid by FOSNNI	£33,000	£27,000	£53,000
Number of claims settled by FOST	33	13	28
Amount paid by FOST	£41,000	£15,000	£50,000
Total amount paid	£74,000	£42,000	£103,000



LOW FLYING MILITARY AIRCRAFT CLAIMS

2.9 The activities of low flying military aircraft can sometimes give rise to claims for compensation from members of the public. The most common claims are those involving injury to, or death of, livestock and/or damage to property although claims are sometimes received for personal injury. Many of the claims are for relatively small amounts, but low flying military aircraft activity is an emotive issue in some areas of the country. Such claims are handled on an *ex-gratia* basis, but are investigated in the same way as if the principles of common law legal liability applied. The foundation of this approach is the Royal Prerogative, which gives an absolute right for all military flying activity, and, therefore, an injured party has no legal rights of redress for compensation. Lord Drumalbyn set out this approach in a Lords Written Answer on 22 November 1971 (Official Report Column 888):

"... No remedies exist in law against any military aircraft flying by virtue of the Royal Prerogative for the purpose of the defence of the Realm or of training or of maintaining the efficiency of the Armed Forces of the Crown. The ... Ministry of Defence will, however, pay compensation on an ex gratia basis if satisfied that the damage has been caused by a military aircraft."

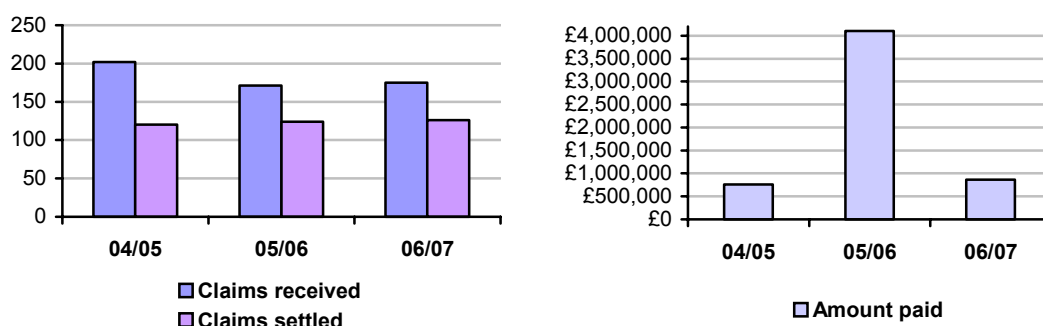
2.10 A procedure has been in place since 1994, following consultation with various farming unions and landowners' associations, for dealing with claims relating to death or injury to livestock. The procedure was most recently updated in December 1999 after a round of consultations with the NFU, Country Landowners' Association and other similar bodies. In accordance with the Livestock and Animal Compensation Claims Guidance the claimant should report the incident promptly, provide veterinary evidence and a fully quantified claim.

2.11 Unfortunately, this is a category of work that requires careful monitoring to identify potentially fraudulent claims. Although no cases were referred to the

MOD Police during this year, such action is always considered if the evidence indicates there is a potential problem.

2.12 On a local level, where public relations play an important role, RNAS, AAC and RAF Station Commanders have delegated authority to settle straightforward property damage claims up to the value of £200 where the claimant lives within two miles of the airfield. In addition, the Regional Community Relations Officers (RCROs) have been given authority from the CCO to recommend fast track settlements for simple straightforward claims up to £250.

	2004/05	2005/06	2006/07
Number of claims received	202	171	175
Number of claims settled	120	124	126
Amount paid	£0.759M	£4.100M	£0.861M



The significant difference in expenditure between financial year 2005/6 and other years resulted from two high-value settlements paid in that year.

2.13 During financial year 2006/7, several claims were made following the Harrier crash at Tackley, Oxfordshire, on 13 July 2006. To date, £47,302.48 has been paid in respect of this incident.

2.14 As mentioned elsewhere in this report, the handling of cases previously undertaken by the Area Claims Officer (Northern Ireland) has been transferred to DS&C (Claims) as from 1 April 2007. This arrangement also covers claims related to low flying military aircraft activity in Northern Ireland.

AIR CRASH CLAIMS SETTLED BY DEFENCE ESTATES

2.15 The Defence Estates organisation (DE) has delegated authority to settle property damage claims arising from military aircraft crashes in the UK within delegated financial authority of up to £50,000 per claim. DE personnel perform valuable work in the aftermath of an air crash and have the expertise to assess many different types of damage from forestry to buildings.

	2004/05	2005/06	2006/07
Number of claims settled by DE	1	0	0
Amount paid	£500	0	0

CLAIMS RESULTING FROM FORMER HMS DAEDALUS MINE CLEARING OPERATION

2.16 A programme of work to remove 20 World War Two (WWII) pipe mines from the former Royal Naval Air Station at Lee-on-Solent commenced on 25 September 2006 and ran for approximately five weeks. The mines, which would have been exploded to deny an invader use of the runways, were laid across many airfields along the south and east coasts of England during WWII. Many were removed at the end of the war, but some airfields retained residual ordnance. Remedial work was carried out at HMS Daedalus in the 1980s using technology available at the time, but new technology allowed for the identification of further ordnance that would not have been identifiable previously.

2.17 The Army took control of the airfield for the duration of the work, which resulted in local exclusion zones being set up with many residents being evacuated during the operation. A number of local businesses were also affected despite MOD working closely with Hampshire County Council, and other authorities, to ensure the operation was carried out safely with the minimum of disruption.

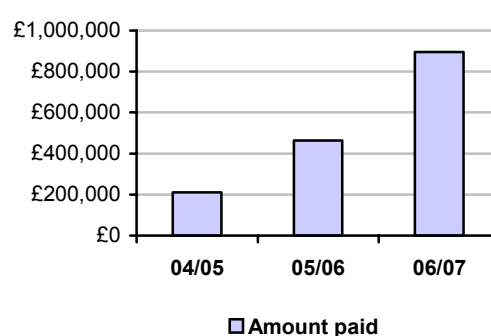
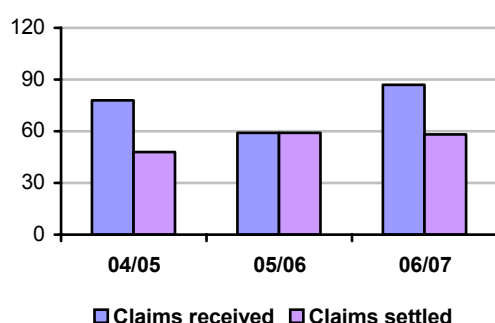
2.18 It was agreed that the resultant common-law compensation claims submitted by residents and businesses should be met by Defence Estates. However, it was also agreed that DS&C(Claims) would be responsible for the day-to-day handling of those claims received, and arranging payments, due to its expertise in dealing with claims matters.

2.19 Claims started to arrive at the end of September 2006. The majority were submitted by residents/businesses and have now been amicably settled. Most were relatively low-value claims and represented the additional costs and loss of business incurred by claimants during the exercise. To date 66 claims have been received, 50 of which have been settled at a cost of £228,423 inclusive of legal costs.

VISITING FORCES CLAIMS

2.20 Claims PLG handles third party claims by and against Visiting Forces based in, or visiting, the United Kingdom under the provisions of Article VIII of the NATO Status of Forces Agreement (SOFA) and Section 9 of the Visiting Forces Act 1952. Such claims could be on behalf of any of the states who are signatories to the agreement or who are invited to train in the UK, but primarily involve the USA, Holland, Belgium and Germany. Claims are investigated and handled in exactly the same way as if British Forces were involved and, if satisfied that the Visiting Force is liable, the MOD pays compensation on its behalf. In the case of NATO countries, the Sending State is billed for 75% of the amount paid, the United Kingdom paying the other 25%.

	2004/05	2005/06	2006/07
Number of visiting forces claims received	78	59	87
Number of visiting forces claims settled	48	59	59
Compensation paid	£210,000	£463,763	£895,755



Visiting Forces claims can be categorised as follows:

2006/07	Property Damage	Low Flying	Personal Injury	RTAs	Clin Neg	Misc	Total
Claims Received	4	9	28	45	-	1	87
Claims Settled	3	7	11	36	1	1	59
Amount Paid	£3450	£19,504	£551,434	£64,741	£256,332	£294	£895,755
MOD Contribution	£863	£4,876	£137,859	£16,185	£64,083	£74	£223,939

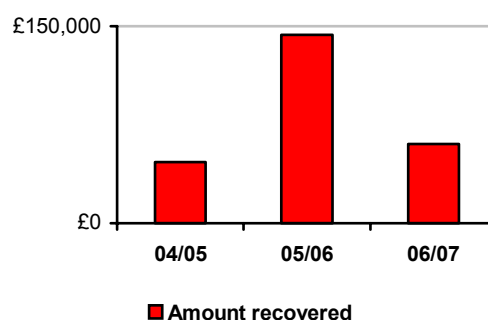
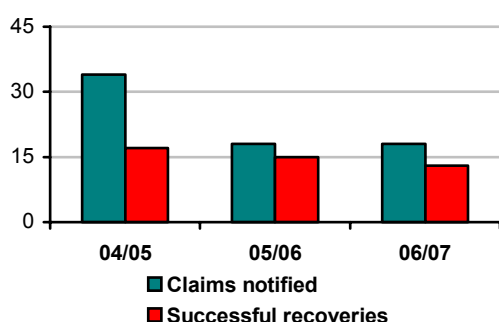
FINANCIAL RECOVERIES

2.21 Where the MOD sustains loss or damage to equipment, or property, which has been caused by a third party, Claims PLG will seek to recover those losses from the third party. The main causes for taking action against third parties are occasions where MOD static property has been damaged by vehicles, fire, water or the negligence of a contractor.

2.22 Less often, Claims PLG will seek to recover compensation from third parties overseas following road traffic accidents and will also assist visiting forces to make recoveries in the UK if requested to do so.

2.23 The number of recoveries processed by Claims PLG in each of the last three financial years is shown in the table below. The largest sum recovered was £29,225, which was for an Army coach damaged in a RTA in Canada.

	2004/05	2005/06	2006/07
Number of claims notified	34	18	18
Number of successful recoveries	17	15	13
Amount recovered	£46,553	£143,483	£60,591



SECTION THREE

SERVICE PERSONNEL EMPLOYER'S LIABILITY **CLAIMS**

“If at first you don't succeed, skydiving is not for you” – Anon

3.1 Prior to 1948, it was not possible for any individual to sue the Crown. This was because of the long held principle that “the Crown could do no wrong”. However, in 1947, legislation was passed enabling the Crown to be sued for acts of negligence. Section 10 of that legislation, The Crown Proceedings Act 1947, prevented Service personnel who were on duty or on any land, premises, ship, etc. being used for the purposes of the Armed Forces from suing for compensation. This position remained until 15 May 1987 when The Crown Proceedings (Armed Forces) Act 1987 repealed Section 10 of The Crown Proceedings Act 1947. Since then Service personnel have, like any other employee, been entitled to sue the MOD for compensation where they have suffered as a result of the Department's negligence. The repeal of Section 10 was not made retrospective.

3.2 At the time of the passage of the 1987 Bill, the question of retrospection was debated and motions to allow members of the Armed Forces, past and present, to pursue claims for injury or death suffered in incidents since 1947 were mooted. They were however defeated or withdrawn. The view that prevailed at the time was that there would have been no logical point at which to draw a line, short of trying to cover all incidents and all types of injury going back to 1947 and that to make the Act retrospective would create many new examples of unfairness and injustice.

3.3 Mr Matthews, an ex-serviceman suffering from an asbestos related disease, challenged this position on the basis that Section 10 of the Crown Proceedings Act 1947 is incompatible with the European Convention of Human Rights. Mr Matthews alleged a breach of Article 2 (right to life) and Article 6 (due process rights) of the Human Rights Act. The case under Article 2 was that by exposing him to asbestos dust the Crown was in breach of its obligation to take positive steps to safeguard his health. The case under Article 6 was that Section 10 Crown Proceedings Act is a 'blanket' immunity which deprives him of his right of access to the Court. The matter was heard in the High Court in December 2001 and judgment handed down by Mr Justice Keith on 22 January 2002 in favour of the Claimant. The Department, however, secured leave to take this matter expeditiously to the Court of Appeal and the hearing took place in April 2002. The Court of Appeal overturned Mr Justice Keith's decision on 29 May 2002, but granted leave for Mr Matthews to take this matter to the House of Lords. Their Lordships considered this matter in January 2003 and handed down a

unanimous judgment on 13 February in favour of the MOD. The five Law Lords agreed that there had never been the right in national law that Mr Matthews sought to assert i.e. that a member of the Armed Forces could sue the Crown in tort, and that he has no “civil right” that Article 6 of the European Convention on Human Rights can operate to protect.

3.4 The Armed Forces Compensation Scheme, a new compensation package for members of the Armed Forces, became effective on 6 April 2005. The new legislation replaces the previous arrangements under the War Pensions Scheme and is administered and paid by the Service Personnel & Veterans Agency. The scheme covers all Regular (including Gurkhas) and Reserve personnel whose injury, ill health or death is caused by service on or after 6 April 2005. Ex-members of the Armed Forces who served prior to this date, or who are receiving a current War Disablement Pension or War Widows’ Pension, are not affected by the new scheme. They will continue to receive their War Pension or War Widows’ pension and any associated benefits in the normal way.

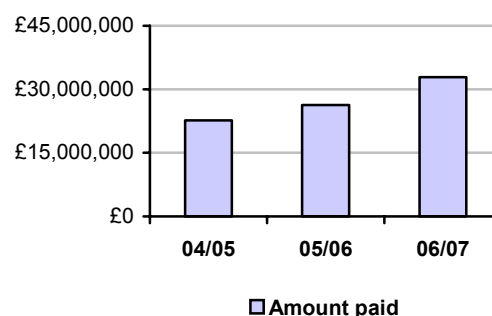
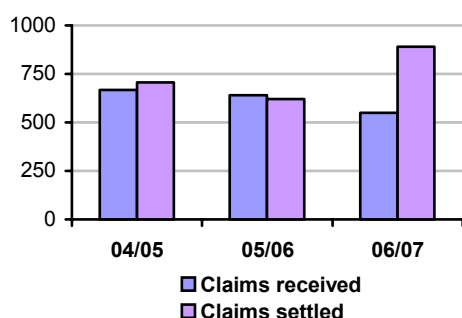
3.5 The Armed Forces Compensation Scheme provides modern, fair and simple arrangements and will focus help on the more severely disabled. It will provide compensation for significant injuries, illness and death that are caused by service. It will also cover injury, illness or death that results from warlike incidents or terrorism. Individuals still have the option to sue the MoD for negligence.

3.6 Under the terms of the Scheme a lump sum is payable to Service or ex-Service personnel based on a 15-level tariff graduated according to the seriousness of the condition. A graduated Guaranteed Income Payment (GIP), payable for life, will also be paid to those who could be expected to experience a significant loss of earning capacity. A GIP can also be paid to surviving partners (including unmarried and same sex partners) where the service person's death was caused by service.

3.7 Royal and Sun Alliance plc handled most personal injury claims from Service and ex-Service personnel on behalf of the MOD from 1 July 1996 when they were first awarded a contract. They were re-awarded the contract for a five year period as from 1 May 2002 following a competitive tender exercise. Claims notified before that date, and some more recent claims of a political or sensitive nature, are handled by the Employer's Liability Group within DS&C(Claims). As detailed elsewhere in this report, a new five year contract was recently awarded to Gallagher Bassett International Limited to handle Employer’s Liability and third party motor claims notified as from 1 May 2007.

3.8 The number of claims and amounts paid are shown below:

	2004/05	2005/06	2006/07
Number of claims received	667	640	550
Number of claims settled	706	621	889
Amount paid	£22.7M	£26.3M	£32.9M



The large increase in the number of claims settled in financial year 2006/07 is due to:

- General year to year variation
- The early settlement of pleural plaque claims

3.9 The increase in expenditure between 2005/06 and 2006/07 reflects settlements made in a larger than usual number of high-value claims, including some related to service in Iraq. It is too early to judge whether the reduction in common law claims received has been influenced by the introduction of the Armed Forces Compensation Scheme.

COMBAT IMMUNITY

3.10 Among the claims being handled in-house are several which relate to service in Afghanistan and Iraq. It is open to MOD to plead a defence of combat immunity in those claims where the injury was sustained engaging the enemy in the course of hostilities. The Court of Appeal handed down this ruling on 21 February 1996 in *Mulcahy - v- MOD* when it was held:

"One soldier did not owe to another a duty of care in tort when engaging the enemy in the course of hostilities.

Furthermore there was no duty on the Ministry of Defence to maintain a safe system of work in battle conditions. Accordingly, a soldier who was injured in battle conditions did not have a cause of action in negligence against the Ministry."

3.11 The *Mulcahy* judgment was clear, but this ruling was expanded in *Bell & Others -v- MOD* (the PTSD High Court group Action) when Owen J ruled:

“Does the immunity apply to anti-terrorist, policing and peace keeping operations of the kind in which British forces were engaged in Northern Ireland and in Bosnia? In my judgment it will apply to operations in which service personnel come under attack or the threat of attack.

[Furthermore] the term combat has an extended meaning in that

a. the immunity is not limited to the presence of the enemy or the occasions when contact with the enemy has been established. It extends to all active operations against the enemy in which service personnel are exposed to attack or the threat of attack. It covers attack and resistance, advance and retreat, pursuit and avoidance, reconnaissance and engagement.

b. the immunity extends to the planning of and preparation for operations in which the armed forces may come under attack or meet armed resistance.

c. the immunity will apply to peace-keeping/policing operations in which service personnel are exposed to attack or the threat of attack”.

3.12 In *Bici -v- MOD*, Elias J narrowed the judgment in *Bell & Others* by stating:

“But any such threat must in my view be imminent and serious”.

SUMMARY OF GROUP ACTIONS

Nuclear Test Veterans

3.13 Compensation for British Nuclear Test Veterans was the subject of an Adjournment Debate held in Westminster Hall at the Houses of Parliament on 4 December 2002. At the Debate, the then Under Secretary for State, Dr Lewis Moonie, re-stated the MOD's position that there is no scientific or medical evidence which currently shows that the health or other physical problems suffered by the test veterans, or their children or grandchildren could be attributed to participation in the test programme. He did however invite the nuclear test veterans to present any new evidence that supported their case for independent review.

3.14 A third National Radiological Protection Board carried out independently of the MOD report was published in early 2003 and this supported the conclusions reached in the previous reports published in 1988 and 1993 which concluded that overall levels of mortality and cancer incidence in the nuclear weapons tests participants have continued to be similar to those in a matched control group, and for overall mortality to be lower than expected from national rates.

3.15 Two firms of solicitors (Alexander Harris Solicitors, Altrincham and Clark Willmot and Clark Solicitors, Bristol) announced in July 2002 that they had been jointly instructed by British, New Zealand and Fijian nuclear test veterans to act on their behalf in an action against the MOD for damages. They secured legal

aid from the Legal Services Commission to pursue the matter, but the funding was withdrawn in August 2005. No appeal was made and the two firms of solicitors withdrew from the action.

3.16 The veterans are now represented by Rosenblatt Solicitors. Proceedings were served on 29 December 2006 on behalf of 1,071 veterans. The MOD exceptionally has 18 months from that date to serve a Defence and is working closely with Treasury Solicitor, Counsel and subject matter experts.

Porton Down

3.17 LAC Ronald Maddison died at the Chemical Defence Experimental Establishment at Porton Down on 6 May 1953. He was taking part in a trial in which 200mgs of the nerve agent GB (Sarin) was applied to his forearm through two layers of cloth. The original inquest into his death returned a verdict of death by misadventure. However, the Lord Chief Justice ruled on 18 November 2002 that the verdict of the original inquest be quashed and a new inquest held. The new inquest opened on 5 May 2004, and a verdict returned by the jury on 15 November 2004 stated that Mr Maddison had been unlawfully killed.

3.18 The Parliamentary Under-Secretary of State for Defence wrote to the solicitor acting for the Maddison family on 20 December 2004 apologising for the fact that Ministry of Supply employees at the Chemical Defence Experimental Establishment at Porton Down, Wiltshire proceeded with a test involving Mr Maddison on 6 May 1953, which led to his death. This was undertaken notwithstanding the fact that an identical test on 4 May 1953 had resulted in an adverse blood test in one serviceman. A ministerial statement was made in Parliament on 21 December 2004 announcing publicly the apology.

3.19 In addition to this, Minister also indicated that MOD would consider favourably any claim for compensation from Mr Maddison's family, on the basis of proceeding with a test on 6 May 1953 which led to his death. MOD accepts that Section 10(i) of the Crown Proceedings Act would not afford legal protection to the MOD because the tests were under the direction and control of civilians and not members of the Armed Forces.

3.20 With regards to claims for compensation, the MOD has now reached an amicable settlement with Mr Maddison's next of kin and compensation in full has been paid.

3.21 Solicitors acting for 368 other Porton Down veterans issued a formal letter of claim on the MOD on 9 March 2007. The claims relate to non-therapeutic experiments carried out at Porton Down between 1940 and 1984. The bases of the claims include (a) trespass to the person, (b) failure to obtain informed consent, (c) failure to adequately plan and conduct experiments and (d) mis-statement. The MOD must serve a Defence and is working closely with Treasury Solicitor, Counsel and subject matter experts.

3.22 Details of compensation payments made in relation to Porton Down claims over the past three years are shown below.

	2004/2005	2005/2006	2006/2007
Number of Claims Settled	Nil	3	4
Compensation Paid (including legal costs)	Nil	£10,000	£142,300

Gulf War Claims

3.23 The MOD accepts that some veterans of the 1990/1991 Gulf Conflict have become ill and that many believe that this ill-health is unusual and directly related to their participation in the conflict.

3.24 The MOD has received approximately 2,000 notifications of “intentions to claim” from Gulf veterans or their dependants but, as yet, no writs have been served or claims made of sufficient detail for the Department to be able to start considering these claims. From public comments made by the solicitor acting for the veterans in February 2004 it is believed that the legal advice received from Queen’s Counsel was that prospects of successfully bringing claims were not good.

3.25 Further to the publication of Lord Lloyd’s report into Gulf Veterans’ Illness, the Department received requests to set up an *ex-gratia* scheme to deal with claims for Gulf War related illnesses. The Department does not consider there is any case, or justification, to do this. In accordance with HM Treasury guidance the MOD considers claims for compensation on the basis of legal liability. No such legal liability exists in relation to Gulf veterans and to treat them as a special case by establishing an *ex-gratia* scheme would set an unwelcome precedent, and would undoubtedly be seen as unfair by other groups of veterans.

3.26 Gulf veterans can, and do, receive compensation in the form of war pensions and attributable armed forces pensions.

Radiation Compensation Scheme

3.27 The MOD is a member of the nuclear industry’s Compensation Scheme for Radiation Linked Diseases. This is a “no fault” scheme where there is no requirement for Claimants to prove negligence on the part of the Department in order to receive compensation. The Scheme, which the MOD joined in 1994, was set up and is run jointly by the participating employers and Trades Unions and does not affect the Claimants’ right to seek legal redress. The Scheme provides for the assessment of a case, on an agreed technical basis, in order to determine the probability that a cancer contracted by a worker could have been caused by occupational radiation exposure. The amount of compensation

payable in a successful case is determined by negotiation between the solicitors representing the parties based upon the same guidelines that would apply if the case had proceeded to Court. The Scheme provides for payments to be made for lower levels of causation probability than would be allowed by the Courts. In addition the Scheme provides “full” payment of compensation at a level of 50% causation probability and lesser payments down to a level of 20% causation probability. In this way the assessment of a case recognises that even below the balance of probability there is a chance that exposure to occupational ionising radiation played a role in the disease.

3.28 During financial year 2006/07, the Scheme received five new claims from former MOD employees (military and civilian) who believe their illness is associated with exposure to occupational ionising radiation. Over the same period, twelve claims were repudiated as failing to meet the minimum 20% causation probability and one claim was settled.

EUROPEAN COURT OF HUMAN RIGHTS JUDGMENT MACDONALD v MINISTRY OF DEFENCE

3.29 Mr MacDonald was a serving Flight Lieutenant, whose resignation from the RAF was compulsorily effected in 1997 because of his voluntary declaration of homosexuality. He lost a claim at a full hearing of an Employment Tribunal (ET) that he had been discriminated against unlawfully on grounds of sex, contrary to the Equal Treatment Directive and Section 6 of the Sex Discrimination Act 1975. Following the ET ruling Mr MacDonald took his case to the Employment Appeals Tribunal (EAT) which found that he had been discriminated against in terms of the Sex Discrimination Act 1975 and had been subjected to sexual harassment. He would be entitled to compensation in both respects and the matter was remitted back to the ET to consider compensation.

3.30 The judgment of the EAT was radical in that it overturned the previously accepted interpretation of the Sex Discrimination Act 1975. The EAT found that the word “sex” should be interpreted to include not just gender but also sexual orientation. It was decided that this judgment should be challenged and the appeal was heard before the Inner Court of the Court of Session in Scotland in January 2002. The Inner Court ruled in favour of the MOD and ordered that the decision of the ET be restored.

3.31 Mr MacDonald subsequently appealed this decision to the House of Lords. The Law Lords considered the appeal in January 2003 and handed down a unanimous judgment on 19 June 2003 in favour of the MOD. The Department’s attempts to reach an amicable settlement with Mr MacDonald – including both financial compensation and re-instatement into the Royal Air Force – were not successful and Mr MacDonald took steps to have this matter considered, and determined, by the European Court of Human Rights (ECHR).

3.32 The MOD has long accepted an obligation to settle Mr MacDonald’s claim in the ECHR on the basis of just satisfaction for being discharged from the Royal

Air Force. The ECHR promulgated its decision on 6 February 2007 and struck out Mr MacDonald's application on the basis that MOD pay Mr MacDonald an appropriate sum of compensation in line with MOD's earlier offers.

ASBESTOS CLAIMS

3.33 In the case of members of the Armed Forces being exposed to asbestos dust and fibre during service before 15 May 1987, they are prevented by Section 10 of the Crown Proceedings Act 1947 from receiving compensation from the MOD. The legal position is that even if an ex-Serviceman only now discovers he has asbestos related disease, he cannot sue for compensation if exposure was before the repeal of Section 10 of The Crown Proceedings Act in 1987. Given that controls over the use of asbestos were introduced in the early 1970s, this is, and will be, the case for the vast majority of ex-Service claimants (the time between exposure to asbestos dust and fibre and the first signs of disease is typically between 15 and 40 years).

3.34 On a more general note reference should also be made to the decision handed down by the Court of Appeal on 26 January 2006 in the pleural plaques test litigation case *Grieves and Others v FT Everard & Sons Ltd and Others*. By a majority of 2:1 the Court of Appeal (headed by the Lord Chief Justice, Lord Phillips) found that there can be no compensation for asymptomatic pleural plaques which are accompanied by the usual risks of future asbestos related disease or feelings of worry.

3.35 The Court of Appeal accepted that their decision went against 20 years of practice by courts at first instance, but as a matter of policy ruled that:

- damages should not be recoverable where exposure produces physiological change which is neither visible or symptomatic and in no way impairs bodily function;
- there can be no free standing recovery of damages for the risk of developing future disease alone;
- there is no duty on an employer to take reasonable care not to cause worry or anxiety and there are control mechanisms which restrict the circumstances in which an employer can be liable for causing foreseeable psychiatric harm.

3.36 Permission was granted for an appeal to be made to the House of Lords on this matter given the difficult principles involved and the very large number of similar pleural plaques claims. We understand their Lordships will consider this matter in late June 2007.

3.37 Whilst this judgment was not directly linked to a specific MOD case, the judgment does have significant implications for all employers, including the MOD, in relation to claims brought by former employees with pleural plaques. In the light of the judgment, and pending the outcome of an appeal to the House of Lords, the MOD, in line with the general position adopted by industry, has

ceased making offers of damages to former employees diagnosed with pleural plaques. In order to address concerns by some claimants regarding limitation, and to ensure that no claimant is statute barred through delay caused by the House of Lords appeal, the MOD will agree to an extension to the period set out in the Limitation Act 1980 pending the outcome of the appeal.

SECTION FOUR

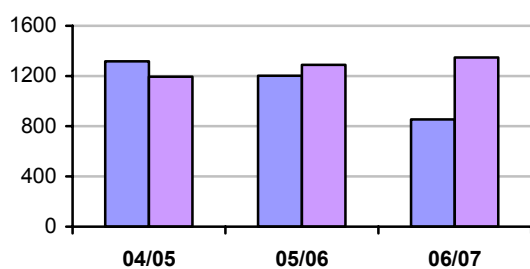
CIVILIAN STAFF EMPLOYER'S LIABILITY CLAIMS

“Employment is nature's physician, and is essential to human happiness”-
Galen, Claudius

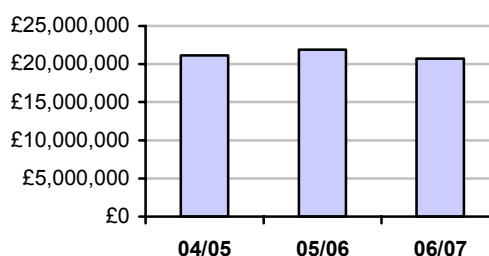
4.1 Since 1982, the MOD has contracted out the handling of its civilian employee Employer's Liability claims. Up until 1 May 2002 such claims were handled by AXA Corporate Solution Services Ltd. Thereafter until 30 April 2007 Royal and SunAlliance plc handled such claims, but following a competitive tender exercise Gallagher Bassett International Ltd will handle all newly notified civilian Employer's Liability claims with effect from 1 May 2007.

4.2 MOD civilian employees injured in the course of their official duties may be able to claim compensation. Details on how to submit a claim are contained in Volume 16, Section 7 of the MOD Personnel Manual and further information is given in DIN 2006DIN07-025 - Compensation Claims against MOD – Service and Civilian Employer's Liability and Clinical Negligence.

	2004/05	2005/06	2006/07
Number of claims received	1316	1202	854
Number of claims settled	1195	1290	1348
Amount paid	£21.1M	£21.9M	£20.7M



■ Claims received
■ Claims settled



■ Amount paid

4.3 Since the ruling on pleural plaques came into effect on 26 January 2006 (further details in Section 3 above) there has been a huge drop in the number of this type of claim received. If the ruling is overturned as a result of the House of Lords appeal due to be held in mid 2007, the number of claims and value of settlements could increase markedly next year.

SECTION FIVE

MOTOR CLAIMS

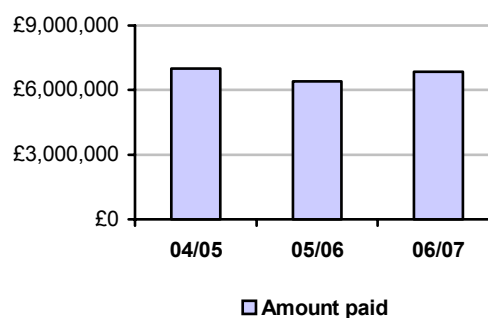
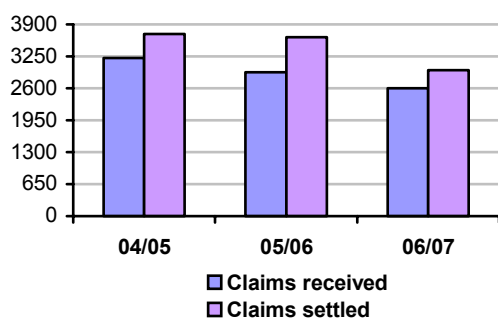
“Patience is the ability to idle your motor when you feel like stripping your gears” - Barbara Johnson,

THIRD PARTY MOTOR CLAIMS - UK

5.1 Since 1982 the MOD has contracted out the handling of claims made against the Department by other road users. Up to 30 April 2007 the contract was held by AXA Corporate Solutions Services Ltd. However following a further competitive tendering exercise the contract has now been let to Gallagher Bassett International Ltd for a period of five years from 1 May 2007 to 30 April 2012.

5.2 DS&C Claims works closely with the Defence Road Safety Officer to reduce the number of road traffic accidents involving MOD employees by raising awareness of the financial and human costs of accidents. To this end DS&C Claims participates in presentations at the Motor Transport Road Shows organised by the DLO and RAF and attends the Defence Road Transport Regulation Working Group and the Defence Motor Transport Sub-Committee.

	2004/05	2005/06	2006/07
Number of claims received	3216	2925	2595
Number of claims settled	3706	3645	2972
Amount paid	£7M	£6.4M	£6.9M



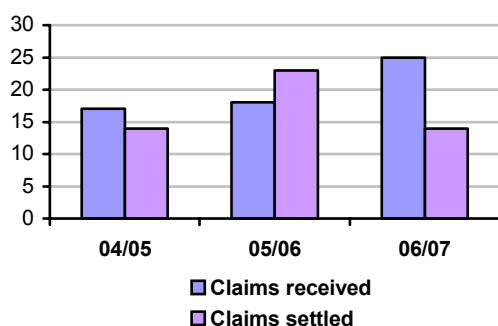
5.3 The highest claim, which settled for £586,000, involved five injured parties in a vehicle which was hit head on when the MOD driver lost control of his vehicle on a bend. The second highest settlement of £445,000 was paid to a motorcyclist who was involved in a head-on collision with a MOD vehicle.

THIRD PARTY MOTOR CLAIMS - OVERSEAS (NOT DEALT WITH BY ACOs)

5.4 Claims arising from non-UK based vehicles overseas are handled by the appropriate Area Claims Officers (ACO) or DS&C(Claims) Public Liability Group (PLG) where the geographical area is not covered by one of the ACOs. It is not unusual to receive claims from anywhere in the world where British Forces are based on exercise, or even when there is a single Defence Attaché with one car. This year has seen claims from Gibraltar, Kenya and Chile. In accordance with JSP 341, units and organisations should send FMT 3-1 (the form submitted by the user unit notifying details of traffic accidents involving MOD-owned, or hired, vehicles and showing that the driver was on duty at the time of the incident) and supporting statements to DS&C(Claims).

5.5 Claims managers are required to establish that an authorised driver was driving the MOD vehicle on an authorised journey and route. If these criteria are met, and all the evidence suggests that the MOD driver was liable for the accident, then compensation will be paid. Statistics for motor claims for the last three years are shown in the table below.

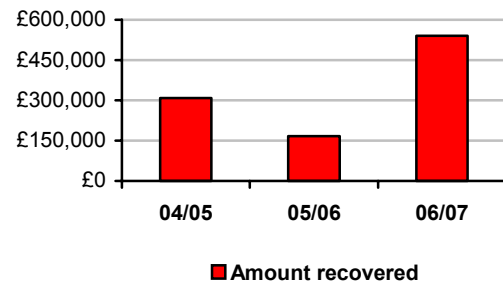
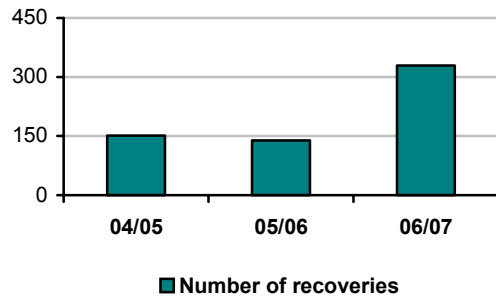
	2004/05	2005/06	2006/07
Number of claims received	17	18	25
Number of claims settled	14	23	14
Amount paid	£12,469	£39,026	£17,950



UNINSURED LOSS RECOVERY

5.6 Up until 30 April 2007 AXA Corporate Solution Services Ltd recovered, on behalf of the MOD, the cost of damage caused to its vehicles in accidents which are the fault of a third party. With effect from 1 May 2007 this service will be provided by Gallagher Bassett International Limited. The number of recoveries and amounts received are shown below.

	2004/05	2005/06	2006/07
Number of recoveries	151	139	329
Amount Recovered	£308,825	£166,792	£540,163



SECTION SIX

CLINICAL NEGLIGENCE CLAIMS

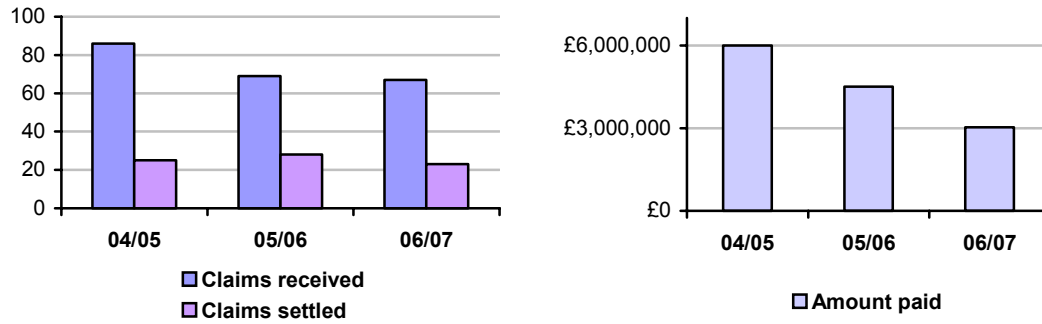
“Some people think that doctors and nurses can put scrambled eggs back into the shell” - Dorothy Canfield Fisher

6.1 The number of new clinical negligence claims being pursued against the MOD during 2006/2007 remained at a similar level to those made the previous year and maintains the downward trend reported over the past few years. Clinical negligence claims are often difficult to pursue because the claimant must establish that the defendant owed them a duty of care and that there was a negligent breach of that duty resulting in the claimant suffering damage.

6.2 Owing to their nature, clinical negligence claims can be very time consuming, complex and expensive to settle. Experts in a number of different fields may be instructed by both parties to provide advice on liability, causation and quantum. An ongoing problem, experienced by both claimants and defendants, is the identification of suitable experts willing to provide opinions in such cases within fairly short timescales. The use of a jointly instructed expert is one way of overcoming this problem, but in very complex cases this is not always practical because more than one is required to give, for example, an opinion on long term prognosis or life expectancy.

6.3 The table below shows expenditure on clinical negligence claims over the past three years. During financial year 2006/2007 the most expensive case settled was for £300,000 which was as a result of negligent treatment during the birth of the claimant which resulted in cerebral palsy. Most cerebral palsy claims settle for sums well in excess of £1M. This claim settled for far less as the teenager in question had only a mild form of cerebral palsy and quantum also reflected the significant litigation risk both parties faced of going to trial, as there was a major difference of opinion between the experts on whether the child's condition was brought about by negligence during its birth.

	2004/05	2005/06	2006/07
Number of claims received	86	69	67
Number of claims settled	25	28	23
Amount Paid	£6.0M	£4.5M	£3.0M



6.4 In addition to formal claims received, DS&C(Claims) received, and actioned, 59 requests from solicitors for disclosure of medical records and other documentation in anticipation of potential clinical negligence claims against the Department.

6.5 The DS&C(Claims) Clinical Negligence team also handles Post Traumatic Stress Disorder (PTSD) claims from Service personnel who allege that the Department failed to properly recognise, diagnose and treat their conditions following service in either Northern Ireland, the Balkans or the Gulf.

SECTION SEVEN

SERVICE PERSONNEL EMPLOYMENT **TRIBUNAL CLAIMS**

“The nearest to perfection that most people come is when filling out an employment application” - Anon

7.1 As highlighted in previous Claims Annual Reports, the claims budget relating to Employment Tribunal applications brought by current and former members of HM Armed Forces was disaggregated to the respective single Service Personnel branches with effect from 1 April 2003. They now have overall responsibility for handling such claims.

7.2 Any further enquiries relating to these cases, or Service Employment Tribunal cases in general should be directed to the respective single Service branches: NP (Sec) Law 2, APC (Litigation) or the RAF Personnel Secretariat.

HOMOSEXUAL DISMISSAL CASES

7.3 The Department is attempting to reach amicable settlement in claims for compensation brought in the Employment Tribunal and/or European Court of Human Rights by former members of HM Armed Forces whom it is accepted were dismissed from the Services as a result of the previously operated policy, which debarred homosexuals from serving in the Armed Forces, and who also submitted their claims within stipulated timescales.

7.4 Whilst the Department maintains that nothing unlawful was done under domestic law, in terms of the Sex Discrimination Act 1975 or under European law, in terms of the Equal Treatment Directive, it does accept that in some cases there had been a violation of those individuals' right to respect for their private life under Article 8 of the European Convention on Human Rights. In those cases it is accepted that compensation should be paid. During financial year 2006/2007 five such claims were settled and £234,000 compensation paid. The table below shows equivalent expenditure in the past three years.

	2004/05	2005/06	2006/07
Homosexual Dismissal Cases Settled	0	3	5
Compensation Paid	0	£65K	£234K

7.5 The Department is in close liaison with the solicitors acting for the 60 or so remaining claimants and formal offers of compensation are in the process of being made in appropriate cases which will hopefully bring this tranche of claims to a satisfactory conclusion.

SECTION EIGHT

AREA CLAIMS OFFICERS

AREA CLAIMS OFFICE (NORTH WEST EUROPE)

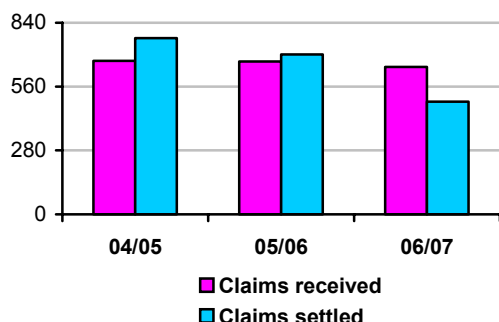
8.1 ACO(NWE) is part of the Civil Secretariat, Headquarters United Kingdom Support Command (Germany) located at JHQ, Rheindahlen. The ACO has eight civilian staff responsible for handling claims for and against the Ministry of Defence in Austria, Belgium, Czech Republic, Denmark, France, Germany, Hungary, Luxembourg, Norway, Poland, The Netherlands and Switzerland. Claims handled include RTAs, training and manoeuvre damage, public liability and loss of service, although the vast majority of ACO(NWE) business, approximately 90% of claims received, relates to vehicle movement of some description and is handled in accordance with Article 8.5 of the NATO Status of Forces Agreement (SOFA).

8.2 This year has seen the resolution of a long standing issue regarding the acceptance of crown cover in Belgium and some movement towards the resolution of a similar issue in Austria. ACO(NWE) successfully represented the UKMOD position with regards to Crown cover and as a result the Belgian MOD now accepts the UKMOD has the right to self-insure leased vehicles operated on Belgian territory. This has removed the requirement for commercial insurance and ensured that third party claims against the UKMOD are handled in accordance with Article 8.5 of NATO SOFA.

8.3 Another significant development for ACO(NWE) this year is the offer extended by the host nation to review the bi-lateral claims Administrative Agreement between the UK and the Federal Republic of Germany (FRG). The Administrative Agreement regulates the procedures for handling claims between the Sending State (British Forces Germany) and the Host Nation (Federal Republic of Germany). This is in accordance with Para 13, Article 41 of the Supplementary Agreement to NATO SOFA, which relates to foreign forces stationed in Germany. This follows a request submitted by the United States Forces to the FRG to review their bi-lateral claims administrative agreement, as a result of which the host nation extended the same option to review the bi-lateral administrative agreements of all Sending States with forces stationed in FRG. A Sending States Claims Working Group has been established to ensure a common approach and to protect the interests of each sending state.

8.4 Emphasis on Risk Management remains a high priority for ACO(NWE) and this year has seen activity to raise the profile of the roles and responsibilities of the organisation through a series of presentations to the British Forces Germany Garrisons, a programme of visits to stakeholders and the continued publication of the ACO(NWE) Newsletter. This has delivered real benefits in terms of the understanding of claims issues and the continued support of stakeholders

	2004/05	2005/06	2006/07
Number of claims received	673	670	646
Number of claims closed	772	701	493
Total Paid	£1,121,382	£1,094,802	£1,021,061
Total Recovered	£491,60481	£531,036	£508,211

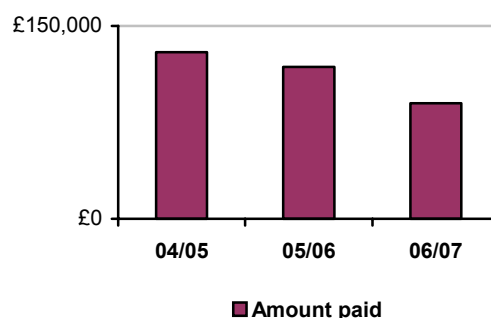
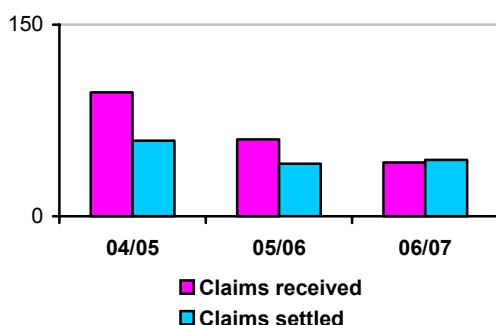


AREA CLAIMS OFFICE BALKANS

8.5 With effect from 3 May 2005 responsibility for all Balkans Claims has rested with SO2 Commercial at Banja Luka and SO3 Commercial at Pristina (Kosovo). The Banja Luka office is due to close on 27 June 2007 when all outstanding claims will be administered and reported on by Civ Sec Kosovo (SO3 Commercial).

8.6 The number of claims being submitted to Banja Luka has reduced significantly during the last 12 months and only four claims have been received since January 2007. The number of claims submitted in Kosovo has only totalled eight for the whole year.

	2004/05	2005/06	2006/07
Number of Claims Received	97	60	42
Number of Claims Settled	59	41	44
Amount Paid	£129,546	£118,273	£89,907
Amount recovered	£382	0	0



8.7 However there remains the possibility that claims which have been repudiated will become the subject of an appeal, with claims being referred to the

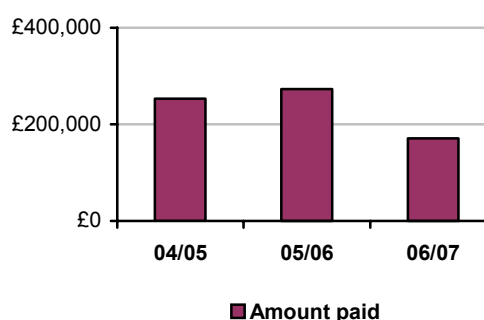
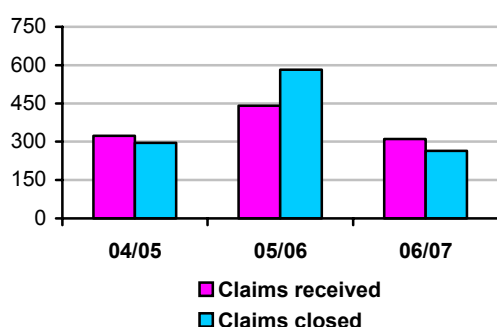
Claims Commission in Sarajevo. These cannot be quantified at this time as the time limitation has not expired for a claimant to make such an appeal.

AREA CLAIMS OFFICE CYPRUS

8.8 ACO Cyprus is responsible for processing claims by and against MOD and the Sovereign Base Areas Administration in Cyprus and its territorial waters. The range of claims dealt with includes RTAs, public and employer's liability, and training & manoeuvre damage. Claims are managed in accordance with the Cyprus Treaty of Establishment (ToE)

8.9 The Cypriot climate and terrain provide excellent training opportunities for the British forces, both in the air and on the ground. Most of this takes place on private land under rights granted by the ToE. Consequently a good deal of the ACO's work involves investigating and settling training and manoeuvre damage claims arising from the activities of our forces, whether caused by resident battalions and squadrons or those visiting from UK. These claims are predominantly for loss of livestock (which will sustain injury and abortion if panicked by helicopters, pyrotechnics, etc.) and crop damage. In providing a rapid response to the claims and complaints raised by farmers and landowners, ACO plays a significant role in maintaining the good relations between MOD and the local community, a vital ingredient in supporting UK's training rights. The ACO seeks to reduce the risk of damage being caused and to that end routinely briefs all exercise reconnaissance officers prior to training taking place.

	2004/05	2005/06	2006/07
Number of claims received	323	441	310
Number of claims closed	296	582	264
Amount paid	£253,000	£273,000	£171,000
Amount Recovered	£18,000	£21,000	£39,000



AREA CLAIMS OFFICE IRAQ

8.10 Based at Basra Air Station alongside HQ Multi National Division (South East), ACO Iraq has experienced another busy year of operation. The ACO is currently manned by 1 x Band C2 and 2 locally employed Iraqi interpreters who manage all third party compensation claims made as a result of the British Forces' activities on Op TELIC.

8.11 The office comprises two adjoined portacabin units which have benefited this year from improved Force Protection, with HESCO barriers being erected. These help protect the office from rocket and mortar attacks. The claims officer operates several times a week at the main gate of Basra International Airport, three miles from the claims office, where he meets claimants in person to register new claims, update claimants on the progress of their claims and make settlement payments where appropriate.

8.12 Claims are only registered and investigated for incidents occurring since the declared end of war fighting on 1 May 2003, except for a small number of claims for loss of property from Prisoners of War captured during the war fighting phase. Due to the sensitive nature of death-related claims, and to ensure a consistent approach in handling such claims alongside those Iraqi claims registered in the UK Court system, all claims involving the death or serious injury of an Iraqi civilian (except those resulting from RTAs) are handled by DS&C(Claims) staff in London.

8.13 All claims received by the ACO are investigated on the basis of whether the British Force has a legal liability to pay compensation. Where there is a proven legal liability i.e. the actions of the British Forces were negligent and as a result a third party has suffered injury to themselves or a family member, or damage to their private property, compensation is paid. Rates of settlement are assessed by the ACO using local Iraqi quantum values.

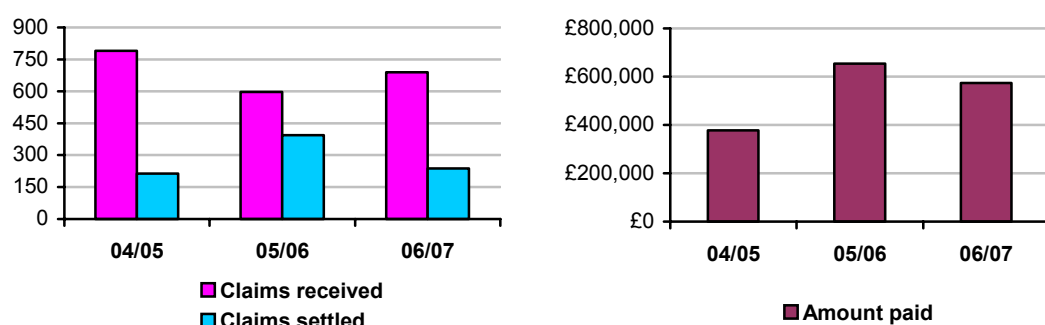
8.14 Claims activity has continued to be high over the past year. The number of claims received is higher than the previous year and the number of cases being concluded has risen as some long term investigations have been finalised.

8.15 The types of claims received continue to be varied, ranging from fatal shootings, shooting injuries, property damage from search operations and RTAs, through to damage to fishing boats due to the firing of illumination mortars or the cutting of low hanging electricity cables by the wire cutters on top of military vehicles. Claims trends for financial year 2006/07 indicate that 88% of claims received have been for property damage whilst the remaining 12% have been for personal injury. This compares with a three-year trend of 80% property damage and 20% personal injury.

8.16 Claims resulting from RTAs have dramatically increased this financial year due to the escalation in the number of Warrior and Bulldog movements in urban areas. The addition of bar armour to these vehicles has also increased damage to parked cars.

	2004/05	2005/06	2006/07
Number of claims received	790	596	689
Number of claims settled	214	393	238
Number of claims closed	668	965	566
Amount paid	£377,204	£653,699	£573,651*
Amount recovered	0	£1,149	0

* This amount includes the sum of £230,984 paid as a result the main water pipe collapsing at Basra Palace caused by erosion due to constant use by Warrior and Bulldog vehicles.

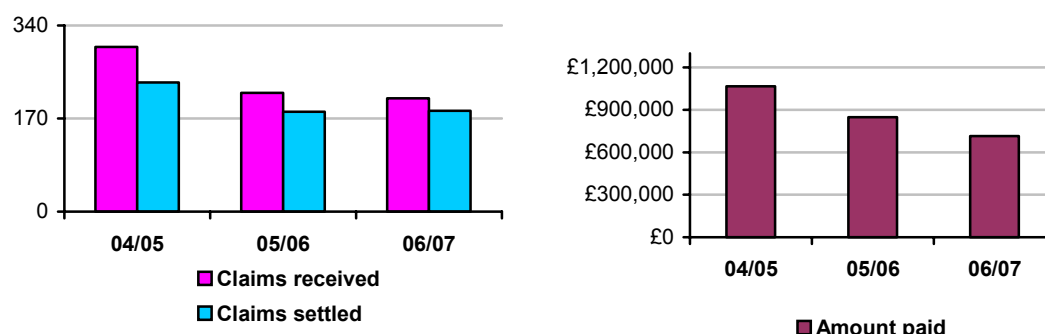


AREA CLAIMS OFFICE NORTHERN IRELAND

8.17 ACO Northern Ireland closed for new business on 31 March 2007. From that date, all new claims will be handled by DS&C (Claims) in London. A small claims staff will remain in NI for a short period to deal with ongoing claims.

8.18 Since the troubles started over 30 years ago, the nature of claims processed by the ACO has changed dramatically. Latterly the majority of claims handled by the ACO were as a result of low flying helicopter incidents. For example, 4978 claims were received in financial year 1994/95, 3374 of which were due to low flying incidents compared to just 207 claims in financial year 2006/07, 181 of which were due to low flying.

	2004/05	2005/06	2006/07
Number of claims received	301	217	207
Number of claims settled	236	182	184
Amount paid	£1,066,500	£847,230	£713,839
Amount recovered	£66,922	£6,590	£270



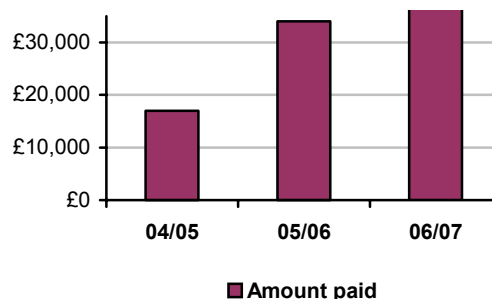
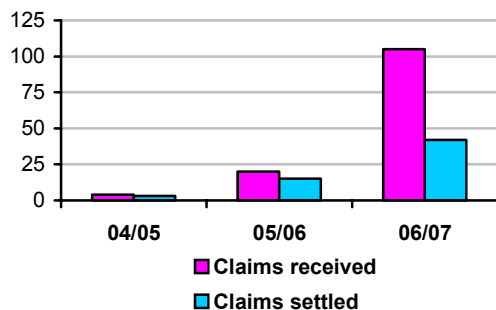
AREA CLAIMS OFFICE AFGHANISTAN

8.19 ACO Afghanistan received 105 claims during financial year 2006/07 and reached a financial settlement in 42 cases. A further 30 cases have been denied, and 19 claims have been transferred to other agencies for adjudication. Of those transferred, nine of the claims have been passed to other Troop Contributing Nations within Regional Command (South). The remaining 14 claims are under investigation.

8.20 The ACO Afghanistan post relocated from Kabul to Lashkar Gah in Helmand Province at the beginning of October 2006. This was to reflect the change in the area of UK operations within Afghanistan. Inevitably, there was an increase in the number of claims received this year as the number of troops and operations increased.

8.21 The settlement of claims is assisted by the ISAF quantum rates, although local market conditions are taken into account to avoid making disproportionate payments. Some 50% of the claims received in year were related to property damage, 30% to death or injury and the remaining 20% were as a result of RTAs.

	2004/05	2005/06	2006/07
Number of claims received	4	20	105
Number of claims settled	3	15	42
Amount paid	£17,000	£34,000	£136,361



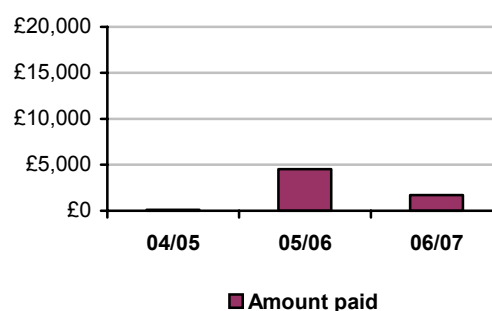
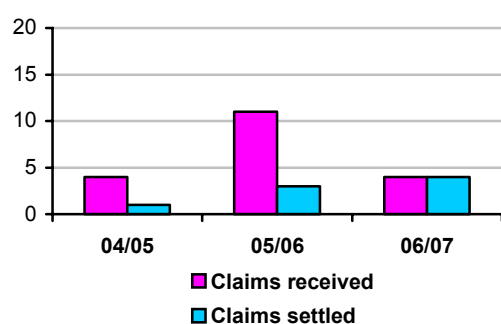
AREA CLAIMS OFFICE SOUTH ATLANTIC ISLANDS

8.22 The ACO in the South Atlantic Islands has delegated authority to handle common law property damage claims up to a value of £5,000 per claim, through the Command Secretariat.

8.23 During Financial year 2006/07, four claims were received of which three were settled in year. Three claims related to RTAs and one to property damage. One claim outstanding from financial year 2004/05 was also settled. There was also one recovery made during the year.

8.24 The geographical peculiarities of life in the Falkland and Ascension Islands mean that the repairs to damaged vehicles can take a considerable time when parts have to be ordered from UK, and delivered by ship.

	2004/05	2005/06	2006/07
Number of claims received	4	11	4
Number of claims settled	1	3	4
Amount paid	£110	£4,524	£1714
Amount Recovered	Nil	£836	£1075



SECTION NINE

DS&C RISK MANAGEMENT

“Life is inherently risky. There is only one big risk you should avoid at all costs, and that is the risk of doing nothing” - Denis Waitley

9.1 The DS&C Risk Team has evolved in the last few years to examine accident data and understand the causes of incidents that gave rise to claims. The Risk Team is now part of the DS&C Delivery Team, which is tasked to:

- understand and learn about the causes of accidents in MOD, as well as externally, from accident reports and claims data; and
- communicate to its stakeholders the causes of incidents, claims and current safety initiatives.

9.2 The policy statement on Safety Health and Environmental Protection requires the Director of Safety and Claims and Chief Environmental Safety Officer for MOD to monitor, review and audit safety and environmental performance and raise areas of concern. During the last year a number of fatalities and serious injuries were monitored and where there was a common causation, concerns were raised with the relevant Top Level Budget (TLB) and the Integrated Project Team for the equipment involved. The aim was to provide advice on the events and the cost of associated claims, as well as seeking assurance that design or working practices would be put into place to mitigate further incidents.

9.3 In the last year, MOD received three Crown Censures from the Health and Safety Executive (HSE). A Crown Censure is an administrative procedure, whereby HSE may summon a Crown employer to be censured for a breach of the Health and Safety at Work Act, or a subordinate regulation, which, but for Crown Immunity, would have led to prosecution with a realistic prospect of a conviction. The three fatalities that resulted in a censure for MOD were:

- Nov 2001 - Whilst climbing on an adventurous training exercise a member of the team fell to his death. There was a lack of control by supervising staff.
- May 2003 - Whilst commanding the unloading of armoured vehicles from a semi low loader a second vehicle rolled and crushed a soldier between the two. He later died in hospital from his injuries.
- May 2004 - After washing a multi launch rocket system (MRLS) vehicle a soldier went to dry his clothes on the exhaust vent. The MRLS was put into high revs and as the power engaged the vehicle lurched forward rapidly and unexpectedly collided with a forklift truck. The soldier was trapped between the towing bracket of the forklift and a load basked on the MRLS. He later died in hospital from his injuries.

9.4 Lessons learnt from the investigation of these incidents by MOD and HSE have been incorporated into current working practices to avoid similar occurrences. The actions taken by MOD were agreed by the HSE as sufficient to prevent a reoccurrence and improve general safety.

9.5 The Delivery Team is also responsible for the implementation of the Incident Recording and Information System Project (IRIS) that will replace CHASP and RAPID, the Ministry of Defence's ageing accident and incident recording database, and the claims handling database.

9.6 IRIS will significantly enhance the Department's ability to record, learn and share data and knowledge, and will enable claims handling to be directly linked to the causal event record and follow-up investigation. A crucial benefit will be the ability to gather meaningful data on hidden or indirect costs of accidents and incidents. The direct costs, which include the cost of compensation and legal costs, are easy to identify, but the indirect costs such as equipment losses, recovery and repair, retraining and medical treatment are often less clear, but no less a threat to defence capability.

9.7 Following a competitive tender exercise a preferred bidder has been selected and a contract should be agreed and signed shortly. The first stage of IRIS will be implemented by the end of 2007 and will be fully operational by the end of 2008.

9.8 The Delivery Team will develop a range of communication strategies, which will include the continued publication of the DS&C newsletter "Simply Safety and Environment".

SECTION TEN

INSURANCE AND INDEMNITIES

“You don’t need to pray to God any more when there are storms in the sky, but you do have to be insured” - Bertolt Brecht

INSURANCE

10.1 Treasury guidelines generally discourage public bodies from insuring risks unless it can be shown that the potential costs of claims paid, together with the cost of handling such claims, will exceed the cost of purchasing insurance. As the costs of premiums, compared to the amounts paid in compensation, would normally favour insurance companies, the MOD self-insures its core activities.

10.2 DS&C(Claims) takes the policy lead on all MOD non-contractual insurance issues and encourages units and establishments to transfer risks arising from non-core activities away from the Department.

10.3 Willis (Aerospace) arranges insurance on behalf of MOD, which is self-financing, for four specific non-core aviation risks:

- Military aircraft attendance at air displays
- Civil use of military airfields
- Search and Rescue training with civilian organisations
- Fare-paying passengers on military aircraft

INDEMNITIES

10.4 DS&C(Claims) is responsible for all non-contractual indemnity matters, ranging from issuing indemnities to landowners who are letting the Armed Forces use their land for exercises, to commenting on different clauses within Defence Estates’ licenses, indemnity provisions within Memoranda of Understanding (MOUs) and other international agreements.

10.5 The MOD always seeks an indemnity against claims arising from activities or events that do not further the interests of the Department. Examples include participation by Service personnel or MOD civilian staff in non-core fund raising or social activities, work experience for students over the age of 16, or the use of MOD personnel or equipment by other organisations for activities which have no direct benefit to the MOD. The MOD must seek an indemnity in such instances as there is no provision in the Defence Estimates to meet claims which are not defence related. Indemnities must be backed by insurance or a guarantee from those companies/organisations that self-insure. The only exception to the

requirement for indemnity is when the MOD is dealing with other Government Departments. This is because of the principle of indivisibility of the Crown.

10.6 DS&C(Claims) issued around 160 indemnities in financial year 2006/07. This figure is substantially down on previous years as the main users of MOD property such as media organisations or charities are increasingly being treated as “Wider Markets” activities, although there has been a large increase in the number of indemnities issued for the use of other organisations' property, equipment or personnel for the MOD's benefit. DS&C(Claims) also commented on 270 MOUs during the year.

10.7 Indemnities that arise from the Department's contractual business are the responsibility of the appropriate Commercial Branch, with policy guidance provided by the Defence Procurement Agency (Central Services Group, Risk).

WIDER MARKETS

10.8 Income-generating activity under the Government's initiative for “Selling Government Services into Wider Markets” is also an exception to the rule that the MOD does not purchase insurance. However, because of the unusual and hazardous nature of the activities the MOD undertakes, commercial insurance may not always be available to cover these activities, or may not be cost effective. Instead customers may pay a Departmental Insurance Charge and any claims for compensation which may arise will then be paid by DS&C(Claims).

10.9 Advice about insurance and risk reduction may be obtained from DS&C(Claims) and from the MOD's insurance brokers, Willis Ltd, in accordance with 2006DIN09-014. Willis has created a specialised package of insurance policies offering a full range of business insurances for Budget Holders undertaking income-generating activity.

SECTION ELEVEN

NOVEL AND CONTENTIOUS CLAIMS

“In law, nothing is certain but the expense” - Samuel Butler

CLINICAL NEGLIGENCE

11.1 In October 2003 a claim for compensation was brought by the parents of Child X who was born at the Cambridge Military Hospital in 1993. Unfortunately this was a complex delivery and as a result of asphyxia the child was born by caesarean section, with brain injuries (mild dystonic cerebral palsy). The allegations of negligence related to the excessive use of Syntocinon despite the presence of an abnormal CTG.

11.2 A large number of expert medical opinions were obtained and legal advice obtained from Queen’s Counsel. There was a major dispute between the opposing medical experts as to the reason for the child’s brain damage. Consequently a round-table meeting was arranged between both parties in June 2006, two weeks before the case was due to go to trial to ascertain whether any amicable settlement could be reached. Although the claim was pleaded at £750,000, agreement was reached whereby the MOD paid £300,000 compensation. This agreement was also approved by the High Court at an infant settlement hearing.

CLINICAL NEGLIGENCE

11.3 The claimant, a minor, complained of severe stomach ache in May 1993. He attended Cambridge Military Hospital and following examination a diagnosis of urinary tract infection was made and the claimant was discharged with antibiotics. He did not improve and was therefore visited several times by two different NHS GPs, who stood by the previous diagnosis and merely changed the antibiotic prescription.

11.4 The claimant’s condition deteriorated and was therefore admitted to Cambridge Military Hospital again where appendicitis was suspected. The claimant was in fact suffering from gangrenous retroileal appendicitis and peritonitis; the claimant’s recovery was very slow as a result. A claim for compensation was submitted in April 2003.

11.5 Liability was conceded as medical evidence considered that the appendicitis should have been diagnosed on the first admission to Cambridge Military Hospital. MOD therefore settled the claim for £11,000 in October 2004,

11.6 It was clear from the medical evidence that the NHS GPs should bear some liability for their involvement and MOD subsequently obtained a financial contribution towards the settlement.

PERSONAL INJURY - ROAD TRAFFIC ACCIDENT

11.7 In September 2002 a convoy of military vehicles was being driven along a German autobahn. One of the vehicles was being driven by the claimant, Soldier S, which collided with the load protruding from the rear of the vehicle in front of it. The passenger in the vehicle was killed, and Soldier S suffered serious injuries. Soldier S held the MOD responsible for what happened, and claimed damages for his injuries. He alleged that the vehicles were driving too close and questioned the braking efficiency of the vehicle. The court ordered that the MOD's liability should be determined before the amount of the damages was assessed.

11.8 Soldier S had been trained to drive large goods vehicles with trailers, including the carriage of hazardous loads and on being posted to Germany was trained to drive on the right hand side of the road.

11.9 The MOD's expert witness, who had considerable experience in investigating road traffic accidents wrote:

"It is inevitable that the separation of vehicles will reduce once braking commences. This will occur simply because, in a line of vehicles, any given driver will usually begin to brake only after the vehicle in front has begun to brake, rather than at the same time; thus inevitably there is a lag in successive drivers braking. If separation distances are appropriate the effect has no serious outcome. If following distances are inadequate each driver has to brake slightly harder than the driver of the vehicle in front and, sooner or later, a vehicle somewhere along the line will collide with the vehicle in front."

11.10 The vehicle had been serviced on 8 July, and an inspection on 17 July showed that the brakes were working satisfactorily. At the date of the accident the vehicle was not due for its next inspection and service.

11.11 Since the vehicle's braking system could not be said to have caused or contributed to the injuries sustained by Soldier S, the court returned to whether his negligence caused the accident rather than the negligence of others. The Court concluded that the pre-eminent cause of the accident was Soldier S's negligence. He should have been keeping a safe distance from the vehicle in front so that he could come to a stop safely without colliding into the girders protruding from the rear of the vehicle, even if it unexpectedly came to an abrupt halt. The primary responsibility for the accident lay with Soldier S and the court concluded that he must be regarded as solely responsible for the accident and the case against the MOD dismissed.

PERSONAL INJURY – HORSE RIDING ACCIDENT

11.12 The claimant was a MOD civilian employee working as a groom at the Animal Defence Centre in Melton Mowbray. The centre deals with horses which have been returned from London as unsuitable for Household Cavalry duties.

11.13 The claimant was riding a horse on the day of the accident, as part of a routine exercise out on the road. The claimant alleged that the horse suddenly and without warning or reason reared, bucked, spun around and threw her to the ground. She then alleged that it tried to trample on her. The claimant suffered an injury to her back and sought compensation of about £35,000.

11.14 The claimant alleged that the horse was known to be unpredictable and dangerous. Furthermore that the MOD forced her to ride it when she was unwilling to do so and therefore alleged she was exposed to a foreseeable risk of injury.

11.15 Counsel for the claimant presented evidence from the claimant and four witnesses from the Animal Defence Centre. The court also heard evidence on behalf of the MOD who denied forcing the claimant to ride the horse, which was a bright animal, perhaps a little sharper than some of the other horses at the centre, but was not viewed as a dangerous animal. In addition, written evidence was provided from the current owner of the horse confirming that the horse was doing well at private stables and was being ridden by novice riders.

11.16 There was a risk assessment in relation to riding exercises and part of this entailed communicating any known unusual characteristics of a particular horse to the rider before they were expected to ride the horse. The claimant alleged that she was given no information regarding the horse's temperament before going out on the ride.

11.17 The Court preferred the evidence of the MOD's witnesses and was of the view that the claimant was an experienced rider and on this particular day the horse did nothing which she should not have been expected to cope with. Furthermore the judge found that the horse had done nothing prior to this incident which would have required the MOD to issue a warning. The judge dismissed the case and ordered the claimant to pay the MOD's costs.

PERSONAL INJURY - POST TRAUMATIC STRESS DISORDER (PTSD)

11.18 The claimant submitted a compensation claim for PTSD against the MOD having witnessed the death of a seventeen year old member of the Charlton Football Youth Academy who drowned in 2000 whilst taking part in training organised by the Army School of Physical Training, Aldershot. The Staff Sergeant in charge of the training exercise had been found by the Court to be grossly negligent and in breach of health and safety regulations and had been convicted of the manslaughter. The MOD had already settled the claim from the family of the deceased.

11.19 The claimant alleged he had lost his chance of a professional football career, since he had been unable to continue with his trial at the Charlton Football Youth Academy. Following investigation it was confirmed that not only had the claimant witnessed the deceased's accident, he had also been involved in the rescue attempt. The MOD therefore admitted liability for the claimant's PTSD. Efforts to agree the level of damages, however, were not straightforward as the respective valuations of the claim were very far apart - £483,000 on the

part of the claimant as opposed to £80,000 on the part of MOD. Alternative Dispute Resolution (ADR), in the form of a Counsel to Counsel consultation, took place in November 2006 in an attempt to narrow the points of dispute which mainly centred on the claimant's "loss of chance" of becoming a professional footballer. Unfortunately, the consultation was unsuccessful, and the case proceeded to trial.

11.20 At trial the judge awarded the claimant £45,000 for the claimant's PTSD but did not award any damages for "loss of chance". This sum was less than the Part 36 Offer made by MOD and therefore it was able to claim the costs incurred from the date of the Part 36 Offer including the costs of the trial.

PERSONAL INJURY – UNSAFE WORKPLACE

11.21 The claimant, a member of REME, was in charge of a technical store in Fallingbostal, Germany. His workplace was the LAD and at the time of the accident it was being repainted. The claimant alleged that although he and a Lance Corporal had been physically sick, and despite complaining to the Commanding Officer about their working conditions, they were told to proceed with their duties. The claimant therefore put in hand a rotation system whereby he worked half an hour and then had a break in the fresh air.

11.22 During the painting of the building a large notice board was dropped and damaged. The claimant went to the metal smith's shop in order to cut four pieces of metal to repair the notice board frame. Whilst using an electrical circular blade metal cutting saw he became dizzy and disorientated. He fell forward, putting his dominant right hand out to steady himself, whereupon it came into contact with the saw severing four fingers.

11.23 The main allegations of negligence/breach of statutory duty were that of defective/dangerous machinery caused by an unguarded saw; and requiring the claimant to work in the LAD during the painting operation.

11.24 Legal proceedings were issued against the MOD. However, some four weeks prior to the trial, the Claimant made an application to abandon the allegation that the paint fumes had caused him to collapse into the circular saw. He made further allegations that the room in which the saw was placed was not guarded, and that although he had used the machine before, he had never been suitably trained. This changed the face of the Claimant's case and an unsuccessful application was made by MOD to vacate the trial.

11.25 At trial, the Claimant's evidence was that he thought he was a competent person to use the machine because he had been shown by an engineer how to use a similar cutting machine when he was stationed at another unit some time prior to the accident. He did accept, however, that there was a protocol regarding training and that personnel should not use the equipment unless they were trained. He also acknowledged that he was aware that a risk assessment was in place when he took over a few months before the accident.

11.26 The judge found in favour of the MOD on the basis that it was not the Claimant's job to be using the circular saw and therefore it was unforeseeable that this accident would have occurred. The court ordered that the Claimant should pay the Defendant's costs.

SECTION TWELVE

LAW AND PRACTICE

“The kind of lawyer you hope the other fellow has” – Raymond Chandler

CIVIL JUSTICE REFORMS

12.1 This part of the Annual Report deals with civil law and practice. It includes a brief summary of the 1999 Civil Justice Reforms. Although these reforms have been in place for some time now, we believe it is important to recapitulate the main aims and procedures, to serve both as a reminder for regular readers of these reports and as a simple digest for those unfamiliar with the subject.

CIVIL JUSTICE PROCEDURES

12.2 The greatest upheaval ever in the Civil Litigation process occurred when the New Civil Procedure Rules were introduced on 26 April 1999. The Rules, which replaced the existing High Court and County Court Rules, have significantly changed the way common law claims are handled, in an attempt to speed up, simplify and make the whole process less expensive. The Rules, which include pre-action protocols, govern the conduct of litigation and encourage the appointment of a single expert to provide an independent opinion.

12.3 The overriding objective of the rules is to enable the court to deal with cases justly in ways which are proportionate to the amount of money involved, the importance and complexity of the case, and to the parties' financial position.

AIMS

- Litigation will be avoided wherever possible
- Litigation will be less adversarial and more co-operative
- Litigation will be less complex
- The timescale of litigation will be shorter and more certain
- Parties will be on a more equal footing
- There will be clear lines of judicial and administrative responsibility for the civil justice system
- The structure of the courts and the deployment of judges will be designed to meet the needs of litigants

- Judges will be employed effectively so that they can manage litigation in accordance with the new rules and protocols
- The civil courts system will be responsive to the needs of litigants

12.4 In keeping with the reforms, the Courts have continued to take a proactive approach to case management, setting down directions which decide the order in which issues are to be resolved and fixing timetables to control the progress of the case. In addition, they encourage the parties to co-operate and consider adopting other methods of settlement such as ADR.

12.5 Proportionality plays an important part in the new system and the courts will consider whether the potential benefit of taking a particular step justifies the cost.

EXPERTS

12.6 In the majority of cases a single expert will be instructed and evidence, assuming the case proceeds to court, will normally be in the form of a written report. The defendant and claimant may submit written questions to the expert and both sides will see the expert's response. If the parties to an action cannot agree upon an expert witness they may instruct their own choice of expert but, if the court decided that either party has acted unreasonably, they will not be able to recover the costs of obtaining the expert report.

PRE ACTION PROTOCOL

12.7 Lord Woolf, in his final "Access to Justice" report of July 1996, recommended the development of pre-action protocols "to build on and increase the benefits of early but informed settlement that genuinely satisfy both parties to the dispute". The Lord Chancellor strengthened this message in the Foreword of the New Civil Procedures Rules when he stated "We must not forget, however, that we should see litigation as the last resort and not the first resort in the attempt to settle the dispute".

12.8 A number of pre-action protocols, including ones for personal injury cases and clinical negligence, have now been published. Eventually all types of litigation will be categorised and, if appropriate, pre-action protocols developed.

12.9 The aims of the pre-action protocols are to promote more pre-action contact between the parties, better exchange of information, better pre-action investigation and thereby to put the parties in a position to settle cases fairly and early, reducing the need for litigation.

12.10 If defendants are unable to comply with the pre-action protocols the courts will have the power to impose sanctions due to non-compliance when proceedings are commenced. Sanctions will likely include a refusal to grant further extensions of time for serving a defence or evidence and costs penalties.

FAST-TRACK AND MULTI-TRACK

12.11 Personal injury claims will be assigned to either a fast-track or multi-track. Fast-track cases will be limited to a value up to £15,000 (soon to rise to £25,000 with an option for parties to extend jurisdiction by consent to £50,000) and will proceed to a hearing quickly.

12.12 There will be an automatic timetable for compliance with the various stages of the litigation. The hearings are designed to be relatively short and in the majority of fast-track cases written evidence only from a single expert will be accepted.

12.13 Multi-track cases currently will generally involve claims with a value in excess of £15,000 (although this is likely to be increased during 2007 to £25,000) or which feature complex issues. Case management by the courts will play an important part in setting the timescales for certain stages of the case and defendants may possibly be required to attend a case conference before a judge, when decisions will be made as to the future conduct of the claim.

12.14 The personal injury pre-action protocol (primarily designed for cases with a value of less than £15,000 (£25,000)) sets out the following stages:

LETTER OF CLAIM

12.15 The Letter of Claim will contain a clear summary of the facts on which the claim is based, including allegations of negligence, and will include details of any injuries suffered or financial losses incurred.

DEFENDANT'S REPLY

12.16 The defendant should acknowledge within 21 calendar days of the date of posting of the Letter of Claim in Personal Injury cases and 14 calendar days in Clinical Negligence cases.

CLAIM INVESTIGATION

12.17 The defendant will have a maximum of three months from the date of acknowledgement of the claim to investigate. No later than at the end of that period the defendant must inform the claimant, or their legal representative, whether liability is admitted in full, is denied, or there is a partial admission. If the defendant denies liability they should enclose with the letter of reply documents which are material to the issues between the parties, and which would be likely to be ordered to be disclosed by the court. If a defendant is unable to comply with the requirements of the pre-action protocol, the claimant will be able to issue proceedings at the end of the three-month period.

12.18 If the defendant makes a proper denial of liability giving the detailed explanation and documents required under the protocol, many cases will proceed no further. In such cases it will be for the claimant to make a decision whether to proceed with the case.

12.19 Defendants will no longer be able to delay making a decision as to whether to settle or fight and they will no longer be able to make a simple blanket denial of liability without giving reasons.

PROCEEDINGS

12.20 There will be a strict timetable for dealing with the Defence. In the majority of cases the time limit will be 28 days after proceedings are served. One extension of time may be granted, although in circumstances where the defendant has failed to comply with the pre-action protocol, it is very unlikely that any extension will be given.

12.21 The Defence must also fulfil new requirements under the rules. The new requirements are as follows:

- the Defence must state which facts are admitted;
- the Defence must state which facts are denied and provide supporting documentary evidence;
- the Defence must state the defendant's own version of events;
- the Defence must identify which facts the defendant is unable to admit or deny and which the claimant is required to prove.

STATEMENT OF TRUTH

12.22 Under the new rules a statement of truth must verify the Defence. The form of the statement is as follows:

"The defendant believes that the facts stated in this defence are true".

12.23 The statement is not sworn, but must be signed by:

- a senior officer of the company, corporation or organisation;
- a partner in control of a business; or
- a legal representative.

12.24 The person signing the statement of truth must identify his or her office or position in the organisation. It follows that the person signing must have authority to sign on behalf of the organisation. If a legal representative signs, he or she is deemed to have explained the consequences to the defendant and the penalties are the same as if the defendant had signed.

12.25 A person who signs without honest belief in the truth of the Defence is guilty of contempt of court. In an extreme case this could result in a fine or even

a prison sentence for the person who approved the contents of the Defence and authorised its signature.

12.26 It follows that in future solicitors will always ask the defendant either to sign the Defence or to approve the contents of the Defence before signing on the defendant's behalf.

12.27 If the Defence is not signed the court will strike it out and the defendant will lose his or her opportunity to defend the claim.

12.28 Bearing in mind the tight time schedules, the Department will need to be in a position to deal with the Defence quickly. In the case of claims against the MOD the appropriate persons to sign the Statement of Truth or verify the Defence will be the Chief Claims Officer or a Senior Claims Officer.

DISCLOSURE

12.29 The new Civil Procedure Rules specify the type of documents which the defendant must disclose and set time limits for doing so. Many of these documents will have been disclosed under the pre-action protocol, i.e. within the initial three-month period for investigation.

12.30 Under the new rules, standard documents to be disclosed include:

- all documents which could adversely affect the case;
- all documents which could adversely affect the other side's case;
- all documents which could support the other party's case.

12.31 A defendant is required to make a reasonable search for documents depending on:

- the significance of the document;
- the number of documents;
- the complexity of the case;
- the ease and expense of retrieval.

DISCLOSURE STATEMENT

12.32 The list of documents which is sent to the other side will include a disclosure statement containing the following information:

- the identity of the person making the statement;
- the extent of the search that has been made to trace documents;

- why the person signing the statement is the appropriate person;
- confirmation that he or she understands the duty to disclose;
- confirmation that that duty has been carried out to the best of his or her ability.

12.33 There will clearly be an onus on the defendant to make sure that the documents can be obtained quickly and that they are up-to-date. The person who signs the disclosure statement, or who authorises the solicitor to sign it on the defendant's behalf, must understand his or her duty and have the appropriate authority within the organisation.

12.34 The implementation of the reforms involved a massive change in working practices. At the outset, and indeed some time before the changes took place, Claims officials undertook additional specialist training to ensure they would comply with the new rules. Updating and refresher courses and workshops have been undertaken during the last year. The acquisition of new and specialist skills has been recognised in the DS&C(Claims) Functional Competence Framework.

12.35 Units and Establishments have also become far more aware of how the protocols and rules operate. Claims officials will continue to work closely with, and remind, Units and Establishments of their duties to co-operate in supplying information and assisting in defence of claims.

12.36 Accidents must be reported promptly and accurately with improvements made to document handling and availability.

12.37 Witnesses must be identified and made available for interview early in the claims process. Similarly, defendants will need to be able to identify and find relevant documents.

12.38 The courts will not be sympathetic to the Department arguing that there has been insufficient time to investigate a claim. Neither will the courts deem the Department to be a special case because of its size, widespread locations or the deployment of key witnesses overseas.

LEGAL SERVICE COMMISSION (LEGAL AID)

12.39 It is well over 50 years since the Legal Aid and Advice Act was enacted. For the first time, it gave access to justice to a range of people who beforehand could not afford to bring a case in criminal or civil law. Eligibility for legal aid depended on the applicant's disposable income and capital but anecdotal evidence is plentiful about how legal aid was wrongly or rightly distributed and it therefore came as no surprise that Legal Aid for Personal Injury claims was abolished in April 2000. The majority of such claims are now likely to be the subject of a conditional fee whereby a claimant's solicitor can uplift his normal charging rate by 100% if successful (providing the success fee does not exceed more than 25% of the total compensation).

12.40 Conditional fees can cause problems for Claims officials when trying to estimate the legal costs element of settling a claim. One method of overcoming this problem is to ask the claimant's solicitor to clarify the basis of funding the costs together with an indication of the success fee agreed. However, as the rules stand, solicitors are not obliged to provide this information to the Defendant and to do so might give an indication of the strength of their client's case. In many cases, therefore, the level of the success fee will not be known until after the case has settled.

12.41 In these cases there will be a far greater opportunity to recover our legal costs because as part of the conditional fee arrangements a claimant will likely take out insurance to protect against the risk of losing the action and to provide an indemnity for the defendant's legal costs. It will therefore be our practice, and the practice of our commercial claims handlers, to pursue claimants with conditional fee arrangements for our costs, in the event that we are successful in the defence of the claim

ALTERNATIVE DISPUTE RESOLUTION (ADR)

12.42 ADR/mediation is considered in cases where there is some evidence to support a claim of negligence. In cases where there is currently no evidence it is not deemed appropriate.

COUNSEL-TO-COUNSEL SETTLEMENT CONFERENCES

12.43 In cases where liability is not an issue, counsel-to-counsel settlement conferences are an innovative and financially attractive way of settling cases without going to trial or settling at the courtroom door. A round table consultation is arranged with the Department represented by counsel, the Chief Claims Officer or Senior Claims Officer and a solicitor. This method of negotiated settlement has had a significant effect on the way claims are handled due to the claimant and defendant showing an element of goodwill combined with a realistic approach. This has demonstrated that it is possible to agree a settlement without recourse to the courts. An added benefit is that the claimant does not need to undergo the trauma of a court case to secure compensation for an injury or loss caused by the Department's negligence.

MEDIATION

12.44 Mediation is a route strongly favoured by the Lord Chancellor as the way forward for civil justice in the UK, for cases where there is some evidence to support a claim. However in cases where there is currently no evidence to support a claim, mediation would not be appropriate. The Department is signed up to mediation as a method of ADR, but as the Lord Chancellor's Department's Press Notice on the subject made clear, ADR is not appropriate in every case. Judges are also now directing parties to an action to mediate the case rather than letting it proceed to court.

12.45 The mediation process employs an independent person (the mediator) to facilitate negotiations between parties in a dispute in an effort to reach a mutually

accepted resolution. The process is voluntary, flexible, confidential and non-binding, and can be entered into and terminated at the discretion of either party. A number of claims made against the MOD have been successfully concluded through the mediation process.

12.46 In financial year 2006/07, thirteen Counsel to Counsel and Mediation settlement conferences were attended by DS&C Claims staff and compensation totalling a little over £10 million was agreed against claims totalling about £19 million. Had these cases run to court, the legal costs payable by the MOD would also have been very significant.

12.47 The Chief Claims Officer and Senior Claims Officer (Claims Handling) are accredited mediators and members of the Chartered Institute of Arbitrators. The Team Leader for Clinical Negligence claims is also an accredited mediator.

CONTRIBUTORY NEGLIGENCE

12.48 Where a person suffers an injury, partly as a result of his own fault and partly the fault of another person, any subsequent claim for damages he pursues may be reduced to reflect his contribution to the cause of the loss. This principle is governed by the Law Reform (Contributory Negligence) Act 1945.

12.49 The following are some examples of Contributory Negligence:

- Driver or pedestrian failing to keep a proper lookout;
- Claimant failing to turn off a machine before cleaning it;
- Failure of motorcyclist to wear a crash helmet;
- Failure to wear seat belt while travelling in a vehicle;
- Riding in a vehicle as a passenger with a driver who is known to be under the influence of alcohol or drugs.

12.50 The claimant's lack of care must be a contributory factor to his injury. However, some concession is made towards children and towards people suffering from some infirmity or disability who are unable to be held responsible for their own actions.

REHABILITATION

12.51 Rehabilitation, as a method of assisting injured or ill people back to work, is a matter that is attracting an increasing level of support amongst various bodies in Government, the Judiciary and the legal profession. It is claimed that at present the UK's track record in getting injured or ill people back to work falls well behind that of other Western countries. By way of supporting this, it is claimed by the London International Insurance and Reinsurance Market Association (LIRMA), in a study entitled "UK Bodily Injury", that the prospects of a paraplegic

returning to full time employment is at least 50% in Scandinavian countries, compared to about 14% in the UK.

12.52 DS&C(Claims) aims to utilise rehabilitation where appropriate when compensation claims are made. To this end, Royal and Sun Alliance, our previous contracted claims handlers with responsibility for Employer's Liability claims, offered rehabilitation in some cases, although to date the uptake has been disappointing. However, rehabilitation is expected to assume far greater prominence in the claims handling process with the revision of the Civil Procedure Rules pre-action protocol on the handling of Personal Injury claims.

FRAUD

12.53 Although the MOD self-insures its core risks, and compensation payments are made directly from the Defence budget, the risks posed by fraudulent claimants are as real for the Ministry as they are for the insurance industry. Claims staff are therefore alert to the possibility of fraud, or grossly exaggerated claims, and, as part of the process of determining liability for the claim, critically assesses the information provided by claimants.

12.54 Surveillance might be undertaken to observe the true extent of a claimant's alleged injuries in cases where there is reasonable suspicion about the veracity of a claim. Claims that are found to be exaggerated are either repudiated or settled at a greatly reduced level of damages in line with the injury suffered and true level of loss incurred by the claimant.

12.55 Cases where investigations suggest that claims are substantially exaggerated, fraudulent throughout, or relate to wholly contrived or fabricated incidents are, as a matter of course, passed to the MOD Fraud Squad with a view to proceeding with a criminal prosecution.

PERIODIC PAYMENTS

12.56 The traditional method of payment following settlement of a compensation claim has been by the payment of a single lump sum. If prudently invested, this would provide a stream of income representing loss of future earnings and/or the need for continued care for the anticipated remainder of the claimant's life.

12.57 A periodic payment normally consists of a conventional lump sum to the claimant together with a regular payment made on a monthly, quarterly or annual basis. The periodic payment can be made by way of an annuity purchased in the marketplace or, in the case of Government Departments and the National Health Service Litigation Authority, on a self-funded basis. The MOD has entered into 29 periodic payment arrangements in high value cases which, up to 1 April 2005, needed the consent of both the defendant and the claimant.

12.58 With the implementation of the Courts Act on 1 April 2005, the Courts now have the power to impose periodic payment settlements and must consider in every case, involving future pecuniary loss, whether periodical payments are a suitable means to pay all or part of the damages.

12.59 The changes have been introduced to ensure a guaranteed income stream for those facing long-term care needs and future loss of earnings. The Court will also have the power to make a variable order to alter the terms of the periodic payment in cases where the claimant suffers some serious deterioration or, indeed, significant improvement.

	2004/05	2005/06	2006/07
Total number of periodic payments	26	28	29
Total payments each year	£1,026,000	£1,243,000	£1,388,506

THIRD PARTY ACCIDENT SCHEME (ToPaS)

12.60 If MOD Civil Servants or Service Personnel are injured in any type of accident by a third party (e.g. a member of the public or a contractor) whilst they are on duty, it is the individual's own responsibility to pursue a common law claim for compensation against that third party without any assistance or involvement by the Department. The reason for this is that the law does not recognise the Department's involvement in such cases and therefore the MOD does not have authority to incur expenditure in such circumstances. The only exception to this is that Civil Servants injured in road traffic accidents can have their legal costs underwritten by their TLB (Civilian Travel Manual Annex 2 to B.6.5), but this does not apply to Service Personnel nor to Civil Servants injured in other circumstances.

12.61 In order to provide legal advice and assistance to MOD Civil Servants and Service Personnel who have been injured whilst on duty, and who consider the injury to be the fault of a negligent third party, the MOD has arranged a free of charge, on duty personal injury scheme called ToPaS (Third Party Accident Scheme) which is operated by Ralli (formerly known as Betesh Fox), a firm of solicitors who specialise in personal injury claims. The scheme works on a conditional fee basis (commonly known as "no-win, no-fee"). This means that any legally sustainable claim which MOD personnel submit to Ralli will be free of charge to the individual. If the claim is successful, in addition to the compensation that has been paid, all legal costs including any money that has been paid for by Ralli will be recovered separately from the party at fault. If the claim is unsuccessful there will no charge to the MOD or to the individual concerned, as the costs will be borne by an insurance policy which is placed and paid for by Ralli. Further details of the Scheme are given in 2005DIN02-209.

12.62 ToPaS also offers a free advice and help line service for victims of accidents abroad, who should in the first instance call 0870 998 9000. There are many occasions when although the accident occurred abroad a claim can still be made within the UK and appropriate compensation can be recovered. On the other hand, MOD personnel who suffer injury as a result of the negligence of a foreign national when abroad may need to obtain the services of a local lawyer. ToPaS can assist in locating a lawyer in such circumstances

12.63 During this last 12 months there has been a steady increase in the total number of MOD personnel making enquiries about the ToPaS scheme. It is clear that a lot of work has been done to increase the profile of the service. There is still much more work to be done as the ToPaS scheme is only assisting a small percentage of the total number of people involved in third party accidents where the individual has been injured. This is mainly due to Service Personnel and Civil Servants not being aware of this service

12.64 Since May 2004 hundreds of unit visits/meetings have been conducted taking the opportunity to brief key unit personnel, discuss how to advertise the scheme and hand out ToPaS information packs and posters. Presentations have been, without doubt, the most effective way of getting this very important message across to all MOD personnel, and have also provided an ideal opportunity for questions and feed back. The response from those units that have made contact has been excellent. Enquiries have come from Canada, the Falkland Islands, the Ascension Islands, Germany, Northern Ireland and from across mainland UK. If you would like more information about the ToPaS scheme or you would like to arrange either a short briefing or presentation then please contact:

Mr Carl Crawley
ToPaS Development Director
Tel: 0870 998 9999
Mobile: 07960 258 664
E-mail: carl.crawley@topas.org.uk
Website: www.topas.org.uk

DS&C(CLAIMS) ORGANISATION

CHIEF CLAIMS OFFICER - BAND B1

SENIOR CLAIMS OFFICER (POLICY) - BAND C1

Responsible for Policy Group

STAFF:

Indemnities & Insurance Adviser	Band D
Assistant Adviser Indemnities & Insurance	Band E1
Policy & Contracts Adviser	Band D
Motor Transport Liabilities Adviser	Band D
2 Focal Point Administrators	Band E2

RESPONSIBILITIES:

NON-CONTRACTUAL INSURANCE

Non-contractual insurance (principally non-core aviation risks), including liaison with MOD's insurance brokers, indemnities and the claims aspects of MOUs

THIRD PARTY MOTOR CLAIMS

Policy relating to third party motor claims and liaison with AXA Corporate Solution Services Ltd and Gallagher Bassett International Ltd.

DIRECTORATE ADMINISTRATION

Claims co-ordination and Focal Point (i.e. Registry function).

CONTRACTUAL MATTERS

Liaison with contractors working for DS&C and the MOD's commercial branch on contractual issues.

HEAD OF BUDGETS – BAND C1

Responsible for Budget management and financial planning for DS&C (Claims)

STAFF:

2 Business Finance Managers	Band C1
Finance Manager	Band D
2 Finance Officers	Band E1

RESPONSIBILITIES:

FINANCIAL MANAGEMENT

Budget management and financial planning for DS&C(Claims)

SENIOR CLAIMS OFFICER (CLAIMS) - BAND C1

Responsible for Employer's Liability Group, Public Liability Group and Clinical Negligence/Employment Tribunals Group

EMPLOYER'S LIABILITY, LOW FLYING AND MARITIME GROUP

STAFF:

Team Leader	Band C2
2 Case Managers	Band D
2 Assistant Case Manager	Band E1
1 Group Administrator	Band E2

RESPONSIBILITIES:

SERVICE PERSONNEL EMPLOYER'S LIABILITY CLAIMS

Handling of Service personnel and ex-Service personnel Employer's Liability claims received before 1 July 1996. Managing the contracts with Royal and Sun Alliance which has dealt with the majority of this type of claim since 1 July 1996 and with Gallagher Bassett International Ltd since 1 May 2007.

CIVILIAN PERSONNEL EMPLOYER'S LIABILITY CLAIMS

Managing the contracts with AXA which deals with claims of this type notified before 1 May 2002, Royal and Sun Alliance which deals with claims of this type notified between 1 May 2002 and 30 April 2007, and Gallagher Bassett International Ltd which deals with this type of claim notified since 1 May 2007.

COMBAT IMMUNITY CLAIMS

Claims relating to service in Iraq and Afghanistan in which it is open to MOD to plead a defence of combat immunity where injury was sustained engaging the enemy in the course of hostilities.

NUCLEAR TEST VETERANS

Claims from veterans of the Nuclear Tests of the 1950s and 1960s in respect of the health problems suffered by them, their children and grandchildren, alleged to have resulted from their participation in the tests - now the subject of a Group Action.

SECTION 10 CLAIMS

Claims from members of the Armed Forces barred by Section 10 of the Crown Proceedings Act 1947.

MISCELLANEOUS CLAIMS

Miscellaneous claims from Service and ex-Service personnel including defective enlistment, false prosecution, unlawful detention.

LOW FLYING

Claims relating to military low flying activity in England, Scotland and Wales. New claims relating to Northern Ireland with effect from 1 April 2007.

MARITIME CLAIMS

Maritime claims including accidents, salvage, collisions and damage to fishing gear.

PUBLIC LIABILITY GROUP**STAFF:**

Team Leader	Band C2
3 Case Managers	Band D
3 Assistant Case Managers	Band E1

RESPONSIBILITIES:**PUBLIC LIABILITY CLAIMS**

Public Liability claims, including Personal Injury, and property damage.

VISITING FORCES

Claims against visiting forces in the UK (under Section 9 of the Visiting Forces Act 1952 and Article VIII of the NATO Status of Forces Agreement).

NORTHERN IRELAND CLAIMS

Politically sensitive claims from members of the public arising from the activities of the Armed Forces in Northern Ireland. These range from unlawful detention to shootings. New public liability claims (with the exception of low flying claims) with effect from 1 April 2007.

VEHICLE CLAIMS

Privately owned vehicle damage claims and road traffic accidents overseas in countries not covered by an ACO.

OVERSEAS OPERATIONS

Claims policy relating to overseas operations and advice to ACOs in Afghanistan, the Balkans, Cyprus, Iraq, NW Europe, and the South Atlantic Islands.

EX-GRATIA PAYMENTS

Ex-gratia payments, including the human volunteer research no-fault compensation scheme.

RADIATION CLAIMS

Claims for compensation due to illness alleged to have been caused by exposure to radiation.

CRIMINAL INJURIES COMPENSATION

Criminal injuries compensation claims from MOD Civil Servants' dependants based overseas.

NON-MARITIME RECOVERIES

Recovery of MOD's uninsured financial losses, excluding those arising from traffic accidents in the UK.

CLINICAL NEGLIGENCE GROUP

STAFF:

Team Leader	Band C2
3 Case Managers	Band D
1 Assistant Case Manager	Band E1
1 Assistant Case Manager (part-time)	Band E1

RESPONSIBILITIES:

CLINICAL NEGLIGENCE

Claims for compensation where it is alleged that the MOD has acted negligently.

EMPLOYMENT TRIBUNALS

Co-ordination of the MOD's response to claims put to Employment Tribunals and then the European Court of Human Rights by former Service personnel dismissed as a result of their homosexuality

GULF VETERANS' ILLNESSES

Potential claims for alleged Gulf War illnesses.

POST TRAUMATIC STRESS DISORDER

Claims from Service and ex-Service personnel alleging failure of the MOD to recognise, diagnose and treat their PTSD.

PORTON DOWN

Claims from Porton Down veterans

DS&C(CLAIMS) STAFF, PROGRAMME AND OPERATING COSTS - FINANCIAL YEAR 2006/07

IN YEAR EXPENDITURE	£ MILLION
Compensation payments and associated legal costs	71.95
DS&C(Claims) Legal Costs	15.14
Operating costs	1.14
Receipts	-5.85
TOTAL	82.38

ANNEX B

TOP 10 CASES SETTLED BY DS&C(CLAIMS) **2006/07**

CLAIMANT	TYPE OF INJURY/LOSS	COMPENSATION*
Army	Negligent Discharge - amputation	£1.17M
Army	Mine Incident - amputation	£1.0M
Army	Rocket Launcher Accident - amputation	£944K
Army	Death following Negligent Discharge	£537K
Navy	Clinical Negligence – Failed Operation/Psychological Damage	£432K
Army	Mine Incident - hip & foot Injury	£414K
Public Liability	Clinical Negligence – Cerebral Palsy	£401K
Public Liability	Death following a fire	£330K
Public Liability	Death having been thrown from horse	£318K
Army	Clinical Negligence – loss of kidney	£303K

*Inclusive of claimant's costs

ANNEX C

TOP 10 SERVICE PERSONNEL CASES SETTLED BY RSA **2006/07**

TYPE OF INJURY/LOSS	COMPENSATION *
Helicopter crash - spinal injuries	£3.64M
Vehicle overturned – multiple injuries	£2.31M
Weapon discharge – amputation	£1.06M
RTA – head injuries	£1.02M
RTA - death during driver training	£814K
RTA – multiple injuries	£748K
Tank detonated artillery shell – multiple injuries	£683K
Hand crushed in machine	£661K
Negligent discharge – death	£577K
Fall on mountain – multiple injuries	£538K

* Inclusive of claimant's legal costs

ANNEX D

TOP 10 CIVILIAN PERSONNEL CASES SETTLED BY AXA AND RSA 2006/07

TYPE OF INJURY/LOSS	COMPENSATION *
Death due to crush injury on a ship	£329K
Asbestos related disease	£267K
Asbestos related disease	£259K
Asbestos related disease	£255K
Asbestos related disease	£253K
Chronic fatigue syndrome/Depression	£217K
Asbestos related disease	£207K
Back strain due to lifting a printer	£202K
Asbestos related disease	£191K
Asbestos related disease	£188K

* Inclusive of claimant's costs

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Area Claims Officer NI	SC Ops(Tpt)4d
Area Claims Officer North West Europe	SC Ops(Tpt)4d1
Area Claims Officer Cyprus	SC Ops(Tpt)4d2
Area Claims Officer Balkans	SC Ops(Tpt)4d3
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