



MINISTRY OF DEFENCE

DC&L(F&S)CLAIMS ANNUAL REPORT

1997/1998

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INTRODUCTION BY THE CHIEF CLAIMS OFFICER

Fortunately, very few of the 300,000 people employed by the Ministry of Defence, their families and friends, need concern themselves with compensation claims-related business on a daily basis. Regrettably, however, some people are personally affected by the negligent actions or omissions of Ministry of Defence employees, perhaps because their property is damaged or, more seriously, because they suffer a major injury or someone they know is killed.

DC&L(F&S)Claims is primarily responsible for processing common law non-contractual compensation claims against, and on behalf of, the Ministry of Defence. The Branch also has a number of other important responsibilities such as providing claims policy advice, handling Service personnel industrial tribunal claims, handling claims against foreign forces based in the UK and recovering amounts due to the Department where Ministry of Defence property has been damaged.

DC&L(F&S) Claims' total expenditure for financial year 1997/1998 was a little over £70M. The Branch was responsible, directly and indirectly, for approximately 8,300 new claims received in 1997/1998. The decisions made when handling claims affect the quality of claimants' lives and their perception of the Ministry of Defence. Cases regularly attract Ministerial, Parliamentary and media attention. It is also a fact that the money spent in settling compensation claims results in no tangible defence output. And the compensation paid is only part of the total financial loss sustained by the Ministry of Defence. To this should be added the cost of days absent, loss of expensively trained staff (e.g. aircrew), cost of training replacements, retraining, legal costs, equipment losses, experts' fees, internal investigations and inquiries (which divert attention from core tasks). But all of this pales against the human costs that sometimes result from Ministry of Defence negligence - a family left without a loved one, an individual who suffers a serious injury, or someone who can no longer pursue their chosen career.

I am convinced that there is a need for all areas of the Ministry of Defence to have a better understanding and greater visibility of the work of DC&L(F&S)Claims, particularly of the sort of activities or omissions that give rise to claims. It is my aim to devote more effort to helping management areas to identify what might be done to reduce the incidence of claims. With this in mind, since my appointment as the Ministry of Defence's Chief Claims Officer, I have seen the production and wide distribution of an annual report as a priority.

The aim of this report is both to inform and to highlight areas where greater management attention and improved controls might limit the risks to which Ministry of Defence employees and members of the public are exposed, thereby reducing the related human and financial cost. The reduction of risk can often be very simple. Examples are: ensuring that a safe system of work is in place; that people are trained to carry out their tasks safely; are provided with, and use, safety equipment and comply with health and safety regulations; that procedures are in place to ensure that employees treat each other properly and do not engage in activities such as 'horseplay', bullying, assault and harassment. If the Ministry of Defence is to reduce the amount spent each year on compensation claims, it is clear that more effort needs to be put into identifying potential risks and, where possible, reducing those risks.

In preparing this, the first Claims Annual Report, we have consulted widely to ensure that we cover the issues that Ministers and managers will find interesting and informative. As this is the first report, it contains more background information on our procedures and practices than will appear in future annual reports. I would be glad to respond to any questions raised by this Report and to receive comments and observations on how future reports might be improved.

Additional paper copies are available from the DC&L(F&S)Claims Focal Point, Room 813, Northumberland House, Northumberland Avenue, LONDON, WC2N 5BP (Telephone 0171 807 70049/56 or Fax 0171 807 70051). This Report can also be e-mailed via CHOTS or supplied on floppy disk.

J T R MITCHELL
Chief Claims Officer

SECTION 1

COMPENSATION CLAIMS HANDLING IN THE MINISTRY OF DEFENCE

Organisation

1.1 The Head of DC&L(F&S)Claims is the Chief Claims Officer, a Grade 7 civil service post. The Chief Claims Officer reports to AUS (SP Pol) through D C&L(F&S). At the end of March 1998, the Branch comprised forty-two staff, the majority of whom were case managers at Executive Officer level. In-year expenditure amounted to £70,049,870. The staffing position at the end of the year, 1997/1998 operating costs and programme costs are set out at Annex A.

Responsibility

1.2 DC&L(F&S)Claims is primarily responsible for processing common law non-contractual compensation claims against, and on behalf of, the Ministry of Defence. The Branch also has a number of other important responsibilities such as providing claims policy advice, handling Service personnel industrial tribunal claims, handling claims against foreign forces based in the UK and recovering amounts due to the Ministry of Defence where Ministry of Defence property has been damaged. It also has a variety of secretariat tasks - during the period of this report the Branch dealt with 241 Parliamentary Enquiries and 7 Parliamentary Questions. Further information on the various activities for which the Branch is responsible is set out at Annex B.

1.3 Area Claims Officers and their staff are located in areas where there is a sizeable defence presence - Northern Ireland, North West Europe and Cyprus. In addition, there are Claims Officers located in Split and the Falkland Islands. Area Claims Officers are accountable to their Command Secretary and DC&L(F&S)Claims provides advice when required.

Policy and Procedures

1.4 When compensation claims are submitted from Ministry of Defence employees, former employees and members of the public, they are considered, in the vast majority of cases, on the basis of whether or not the Ministry of Defence has a legal liability to pay compensation. Where there is a proven legal liability, compensation it is paid. To deal with cases on any basis other than legal liability requires difficult subjective judgements to be made that would undoubtedly lead to inconsistency and unfairness.

1.5 The amount of compensation paid is determined by common law principles which, broadly, take account, as appropriate, of the individual's pain and suffering, degree of injury, property losses, past and future financial losses, level of care required, etc. 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 for cases brought in England and Wales; the Crown Solicitor in Northern Ireland and Robson McLean, the Department's legal advisers in Scotland. Junior and leading counsel are also consulted on high profile or complex cases or where a point of law needs to be explored. The majority of cases are settled amicably one way or the other and

most payments of compensation are made without claimants having to take the Ministry of Defence to court. More detail on the legal process is provided in Annex C.

1.6 In accordance with Treasury policy, the Ministry of Defence 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. low flying claims; claims from volunteers who are injured during research work at Porton Down and for certain miscarriages of justice affecting Service personnel. In overseas areas, because of the provisions of the NATO Status of Forces Agreement and other international agreements, the Ministry of Defence 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 rape and murder. There is no legal obligation to make an ex-gratia payment. Each case is decided on its merits, taking into account a number of factors including: the degree of infamy (the seriousness of the offence), the conduct of the injured party, 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 tortfeasor to make satisfactory restitution to the claimant. Insured losses and awards to government or commercial bodies are very rarely paid. One of the most publicised ex-gratia cases in recent times is that of the Danish tour guide killed in Cyprus which is mentioned later in this report.

1.7 In addition to common law claims, DC&L(F&S)Claims also handle claims relating to Industrial Tribunal applications brought by current or former Service personnel. These claims typically involve allegations of unfair dismissal, sexual/racial discrimination or sexual/racial harassment. Whilst the single Service secretariat branches will initially receive and investigate Industrial Tribunal applications, they have no delegated financial authority and claims can only be settled by obtaining the agreement of DC&L(F&S)Claims who hold funds centrally.

Common Law Claims From Service Personnel

1.8 Prior to May 1987, Service personnel were prevented from pursuing claims for compensation from the Ministry of Defence by Section 10 of The Crown Proceedings Act 1947. (Crown Immunity prevented claims from being made prior to 1947). However, Section 10 was repealed by The Crown Proceedings (Armed Forces) Act 1987. Since the change in the law, which was not made retrospective, Service personnel, and the dependants of deceased Service personnel, who suffer loss or injury (including illness) as a result of negligence by the Ministry of Defence have been entitled to make common law claims for compensation.

1.9 Compensation in the form of a war pension and associated benefits are available to all former members of HM Forces suffering an illness or injury attributable to their service. War Pensions are administered and paid by the Department of Social Security's War Pensions Agency only to those who qualify after leaving the Armed Forces. War pensions are abated to take account of any common law compensation paid for the same injury or illness.

SECTION 2

HIGH PROFILE, NOVEL OR CONTENTIOUS CASES/GROUPS OF CASES SETTLED IN FINANCIAL YEAR 1997/98

2.1 The nature of compensation claims is such that very often, and certainly for the more serious cases, some considerable time can elapse between the event that gives rise to the claim and the claim being settled. The 'Top Ten' cases by value settled by DC&L(F&S) in 1997/1998 are summarised at Annex D. Outline details of some of the most high profile cases, or types of cases, settled during the reporting period are given below.

Accident - RAF - Chinook Helicopter

2.2 On 2 June 1994, a Chinook helicopter travelling from Northern Ireland to Scotland crashed into the Mull of Kintyre. The crew of four, two pilots and two air load masters and twenty five military and civilian passengers were killed. The passengers were all members of the intelligence agencies working in Northern Ireland. The cause of the crash has been attributed to gross negligence on the part of the two pilots although the families of the pilots dispute this. Payments of compensation totalling £13.3M have been made. Most of the compensation paid was to the widows and children of those killed. However, because it is also possible for parents and fiancées to make claims in Scotland, there were some payments made on this basis which would not have been allowed under English and Welsh jurisdiction. The claims for compensation from the families of the two pilots remain outstanding.

Accident - RN - Collision At Sea

2.3 When entering Valletta Harbour, Malta, on 4 May 1995, HMS ILLUSTRIOUS collided with and capsized a local tug. Liability was not in doubt and the owners claimed the full value of the tug at £700,000. Negotiations were complicated and long drawn out, but eventually the tug owners accepted the sum of £519,000 on 15 April 1998. A personal injury claim for more than £100,000 from a tug crew member remains outstanding.

Accident - Army - Assault Course

2.4 Pte X was a recruit at the Guards Depot at Pirbright who was rendered tetraplegic after an accident in November 1994. During a confidence-building exercise involving a rope crossing he was pushed and fell from the platform support and landed head first on a concrete surface. His claim for compensation was settled at a counsel to counsel settlement conference in March 1998 for £1.737M.

Accident - Army - Saxon Vehicles

2.5 In the space of four days in September 1994, two Saxon APCs were involved in accidents in the vicinity of Bosnia-Herzegovina, resulting in the deaths of four soldiers and the serious injury of five others. The subsequent Board of Inquiry into both incidents concluded that the accidents were caused as a result of driver error. These conclusions were not well received by the families of the deceased who embarked on a campaign to clear their names.

2.6 The then Minister (Armed Forces) ordered a review of the findings of the BOI which, with the benefit of additional evidence not available to the BOI, found that it was not possible to conclude categorically that driver error was the cause of the accidents and accordingly an open conclusion was reached.

2.7 Following Counsel's Opinion on the accidents and the BOI review, it has been decided that all claims, both from the representatives of those who died and from individuals who were injured, will be accepted. Of the nine claims intimated so far, three were settled last year for £22,500 (excluding costs).

Accident - Army - Road Accident

2.8 X injured his back on exercise when involved in a road traffic incident on Salisbury Plain. Solicitors were instructed to pursue a claim against the Ministry of Defence contending negligence. X maintained he was unable to perform his pre-accident duties. Following a medical discharge, he contended he was semi-paralysed and wheelchair dependent when outside the house. Following medical examination and surveillance, X was found to be fully mobile, with no significant disability. This case is highlighted to show that when there are doubts about the validity of a claim, surveillance is employed by the Ministry of Defence to help determine a claimant's disability.

Racial Abuse - RN

2.9 Former Marine X pursued a claim for compensation against the Ministry of Defence alleging verbal racial abuse together with alleged physical assault resulting in a 'crucifixion'. These alleged incidents occurred whilst undergoing Commando Training at Lympstone and on being posted to Commando Royal Marines, Arbroath, between the dates of September 1988 and May 1989 when he went AWOL.

2.10 Limitation (the claim was statute barred) was pleaded as a Defence by the Department. However, X asked the Court to exercise its discretion to put aside the limitation period so that the action could proceed as he claimed that he was not aware until he had sought medical advice that he was suffering a psychiatric condition due to the alleged incidents as described above.

2.11 Following a High Court Hearing in January 1998 to rule whether the Ministry of Defence could rely on Limitation as a Defence, the High Court ruled in favour of the Ministry of Defence, and X's claim was therefore unable to proceed. X has since appealed.

2.12 This case had the potential of being an expensive claim. It is imperative that all forms of racially motivated abuse within the Armed Forces are eradicated.

False Imprisonment - Army

2.13 X was convicted of rape and actual bodily harm by General Court Martial in April 1990. His conviction was, however, quashed on appeal in January 1992. X claimed damages from the Ministry of Defence on the grounds of malicious prosecution, false imprisonment and negligence. The Ministry of Defence defended the claim and the case went to trial.

2.14 At the trial, the judge ruled for the Ministry of Defence and dismissed X's claim for malicious prosecution and false imprisonment. However, the jury decided that the conditions under which X was detained were intolerable and that, as a result, he suffered Post Traumatic Stress Disorder (PTSD), for which X was awarded £65,000.

Unlawful Killing - Army

2.15 Three British soldiers were convicted and sentenced to life imprisonment (and dismissed from the Army) for the abduction, conspiracy to rape and manslaughter of a tour guide in Cyprus on 13 September 1994. In such circumstances the normal legal advice would be to bring a private claim against the individual soldiers. Although the Department could not be held vicariously liable for their actions it was agreed exceptionally that the Department would pay compensation to the parents of the deceased in accordance with the Cyprus Treaty of Establishment.

Indecent Assault - Army Cadet Force

2.16 Claims are being pursued on behalf of eight minors who allege that they were subject to indecent assault by two officers in the Army Cadet Force. It is also contended that the victims have suffered psychological damage. The police were involved and successful prosecutions were brought against two serving officers who received custodial sentences. Following the criminal prosecution, a wide reaching enquiry was carried out, following allegations that the officers were part of a paedophile ring. No evidence was found to support this allegation.

Claim from Member of the Public - Motor Accident

2.17 On 17 August 1997, at the Northampton Balloon Festival, a Bedford 4 Ton vehicle being driven by a member of the Territorial Army slid down a grassy bank while the driver was attempting to manoeuvre the vehicle. The vehicle collided with a group of people resulting in injury to seven members of the public, including a child who sadly died the following day. The child's mother submitted a claim under the Law Reform (Miscellaneous Provisions) Act 1934 for the deceased's own losses. This claim was settled for £9,500. The sum represented £1,000 for pain, suffering and loss of amenity, £100 for clothing and personal effects, funeral expenses of £840, interest of £70 and the bereavement damages of £7,500 payable to his mother under the Administration of Justice Act 1982. As well as being an example of a third-party motor claim, this tragic case highlights how little compensation is payable in law to non-dependant parents whose child is killed.

Claim from Member of the Public - Medical Negligence

2.18 Miss X, aged 15, was admitted to the Royal Naval Hospital, Haslar, on 29 December 1993, complaining of a sore throat and suffering breathing difficulties. She subsequently experienced a cardiac arrest and due to difficulties with her resuscitation she sustained serious and permanent brain damage. The Department admitted liability and in June 1997 the High Court approved an award of a capital sum of £480,000 followed by £110,000 per annum to be paid as a structured settlement until 9 June 2008 and thereafter a sum of £126,200 to be paid per annum until

her death. The annual payment is to cover 'round the clock' care and various items required by Miss X.

Unfair Dismissal - RAF

2.19 Mr A joined the RAF as an Aircraftman in 1990. He had a gender identity disorder (commonly known as transsexualism) and wanted to be known as Miss B. In January 1991 Miss B was medically examined which resulted in her being downgraded and eventually declared unfit for service. Miss B claimed discrimination and unfair dismissal from the Armed Services, alleging that this was because of her situation as a transsexual. In September 1997 the Department agreed to pay the applicant the sum of £2,500 compensation.

Sexual Discrimination and Harassment - RN

2.20 Leading Wren C alleged that she suffered sexual discrimination and harassment whilst serving on board a warship, between January 1994 and May 1994. It is alleged that this harassment resulted in a deterioration of her mental condition which eventually led to her medical discharge from the Navy. In June 1997 the Department agreed to pay the applicant the sum of £85,000 compensation.

Employer's Liability Claim - Ministry of Defence Civilian Employee

2.21 In December 1991, a Ministry of Defence civilian mechanic, aged 26, employed at a Territorial Army barracks, was lifting a vehicle part with a colleague when his colleague dropped it, leaving him to take the full weight. This resulted in an injury to the mechanic's back. In May 1992, the mechanic injured his back again at work when lifting another vehicle part. Following investigations, counsel advised it was likely that liability would attach to the Ministry of Defence in respect of the first accident because he concluded that there was no proper safe system of work in place for such heavy manual handling tasks. Counsel also advised that, although it was considered that through his own negligence the claimant was responsible for the second accident, it was likely that a court would find in favour of the claimant as the injury had already been caused by the first accident.

2.22 The claimant was absent from work for two days following the first accident and did not return to work after the second accident. The claimant sustained a prolapsed disc as a result of the accidents and was medically retired in June 1993. In October 1994, he underwent a lumbar discectomy but this made little difference to the level of pain he was experiencing. Medical evidence stated that while the claimant would be able to undertake lighter forms of employment, he was left with a weak back and would be unable to carry out any physically demanding employment in the future. The claim was settled for £200,000.

Environmental Contamination - United States Forces Based in UK

2.23 In April 1990, aviation spirit spilled into a bore hole at an American Air Force base in England, polluting the water table. A claim was subsequently lodged by the water company. The claim, although against the US Forces, was handled by DC&L(F&S) Claims under the terms of the

NATO Status of Forces Agreement (NATO SOFA). The amount claimed was in excess of £500,000 but, by entering into negotiation, a court case was avoided and a settlement of £350,000 was made in March 1998. Under NATO SOFA, 75% of this sum will be recovered from the US government.

SECTION 3

BRIEF SUMMARY OF GROUP CLAIMS

3.1 Some particular incidents or events involving Ministry of Defence personnel have led to a number of claims from those affected. The position on the major group claims, as at 31 March 1998, was as follows.

Gulf War Illnesses - Intentions to Claim

3.2 Since returning from the Gulf War in 1991, some veterans have become ill. Many believe that this ill-health is unusual and directly related to their participation in the war. Furthermore, some believe that the health of their partners and children has also been adversely affected. As at 31 March 1998, DC&L(F&S)Claims had received a total of 1,657 notifications from Gulf War veterans, their families and civilians of an intention to claim compensation. (This figure excludes 103 intentions to claim that were subsequently withdrawn by the 'claimants'.)

3.3 DC&L(F&S)Claims has not received any writs or claims of sufficient detail stating specific allegations of negligence. The Ministry of Defence has not accepted either cause or negligence but has acknowledged less than satisfactory handling of a number of matters, such as the failure to transfer details of vaccination to permanent records, the way in which "informed consent" was implemented and the initial failure to provide information about the use of organophosphates.

3.4 Once writs have been served or properly formulated claims submitted, DC&L(F&S)Claims will be in a position to start dealing with the claims expeditiously. It is likely that each individual claim for common law compensation will have to be considered on its merits, taking into account each individual's symptoms, the suggested causation and the degree of sickness, disability or distress. However, if possible we shall make clear in settling the first cases the line for dealing with the rest. DC&L(F&S)Claims would, as always, hope to avoid cases proceeding to a court trial. In general, if a claimant or his lawyer is able to show that their illness was, on the balance of probabilities, caused by the negligence of the Ministry of Defence, their claim will be settled.

Porton Down Volunteers

3.5 Since 1916, over 20,000 Service personnel have visited CBD Porton Down to participate in research work as volunteers. In recent years about 150 former volunteers have enquired about the trials in which they took part, sometimes out of curiosity, but sometimes because they have concerns about their health and wonder whether there is a link. Some former volunteers have sought compensation. In the overwhelming majority of instances, any claims for compensation from

the Ministry of Defence are barred by Section 10 of The Crown Proceedings Act 1947. (See paragraph 1.8).

3.6 On 22 September 1997, the then Minister (Armed Forces), accompanied by the Senior Claims Officer and DERA representatives, met Mr T M Roche and Mr D Payton, both former volunteers. Mr Roche is the Chairman of the Porton Down Volunteers Association (PDVA), a lobby group which is claimed to have some 300 members comprising former Porton Down volunteers. The purpose of the meeting was for the Minister to hear at first hand the former volunteers' concerns. This meeting led to the introduction of a number of measures by DERA to assist former volunteers, including advice on compensation from the Ministry of Defence and war pensions and associated benefits payable by the DSS War Pensions Agency. Subsequently, the Senior Claims Officer and others met the PDVA's lawyer. He pressed for a long term health study of volunteers and for compensation from the Ministry of Defence. Both demands were rejected.

3.7 Mr T M Roche, who suffers from hypertension, chronic bronchitis and bronchial asthma, lodged a claim with the European Commission of Human Rights on 31 January 1996. He suspects that his condition may have been caused by his involvement in tests at Porton Down in the 1960s. He alleges violations of the European Convention of Human Rights in respect of his civil action for compensation from the Ministry of Defence (which was frustrated by Section 10 of The Crown Proceedings Act 1947) and the alleged withholding of his medical records. The case is still with the Commission and any developments will be covered in next year's report.

Asbestos-related Disease

3.8 Asbestos dust and fibre principally affects the lungs, although it can cause problems in other organs too. Once asbestos dust or fibre is inhaled, a proportion may stay in the lungs for the rest of the individual's life. In time - between fifteen and forty plus years - the asbestos may cause disease. The effect of asbestos-related disease ranges from a symptomatic to certain death. There is no clear link between the level of exposure to asbestos dust and fibre and the likelihood of developing disease. There is very little prospect of a cure being found for the diseases: the best sufferers can hope for is help in alleviating their symptoms. Regrettably, in the past, some the Ministry of Defence employees were exposed to levels of asbestos higher than is permitted today. Unfortunately, the numbers of present and former Ministry of Defence employees who have died as a result of an asbestos disease, are currently suffering, or are yet to develop a disease, are not known. Generally, however, RN personnel who served afloat in any capacity during the period from the end of the second world war to the 1970s when regulations on the use of asbestos were introduced, particularly those working in ships' boiler rooms, are most likely to have been at risk. Ministry of Defence civilians involved in ship refitting or repair in the same period are also likely to have been at risk

3.9 Since most Service personnel will have been exposed prior to 15 May 1987 (the date from which they could receive compensation for Ministry of Defence negligence. (See paragraph 1.8.) they are not able to receive compensation. This position was confirmed in a recent Court of Appeal judgement ¹. (Leave to appeal to the House of Lords was not given.) They would however

¹ Ronald Quinn -V- Ministry of Defence

be entitled to war pensions and associated benefits from the War Pensions Agency. Civilian employees have, since 1947, been able to sue the Ministry of Defence for common law compensation.

3.10 For several years campaigners working on behalf of former Servicemen have argued that the compensation Servicemen receive is less than their civilian counterparts with the same degree of disability and that this is unfair. As a result, and following a meeting with interested MPs on 16 July 1997, the then Minister(Armed Forces) asked for advice on the issue. Specifically, he wished to consider whether there is any unfairness in the amount of financial compensation paid to former Service personnel when compared to civilians and, if so, what options to provide more assistance to Service personnel may be available. A summary of the advice put to Minister(Armed Forces) and any subsequent developments will be covered in next year's report.

SECTION 4

MOD CIVILIAN EMPLOYEES EMPLOYER'S LIABILITY CLAIMS

4.1 Since 1982, the Ministry Of Defence has contracted out handling of its civilian employees employer's liability risks and third party motor claims. Last year, DC&L(F&S)Claims and Contracts Branch CP21 negotiated a new five-year contract with Guardian Insurance Services (UK) Limited, following a competitive tender exercise, which for the first time excluded insurance on value for money grounds. It is expected that this new approach will lead to considerable savings to the Ministry of Defence over the contract period.

4.2 Civilian Ministry of Defence 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 Ministry of Defence Personnel Manual. The main types of claims received in the last three years from current or former Ministry of Defence civilian staff are listed in the Table below.

Civilian Employees Employer's Liability Claims Received

Type	Number of Claims Received in each financial year		
	1995/96	1996/97	1997/98
Asbestos-related disease	232	191	183
Noise Induced Hearing Loss	408	318	494
Vibration White Finger	159	110	94
Accident Injury(Falls/Machinery/Lifting)	616	571	522
TOTAL	1,415	1,190	1,293

4.3 We receive fewer civilian employer's liability claims than we did three years ago simply because there are fewer employees.

SECTION 5

THIRD PARTY MOTOR CLAIMS

5.1 Since 1982, the Ministry Of Defence has contracted out handling of third party motor claims against the Department. Last year, DC&L(F&S)Claims and Contracts Branch CP21 negotiated a new five-year contract with Guardian Insurance Services (UK) Limited, following a competitive tender exercise, to provide a claims handling service for third part motor claims. Details were published in DCI GEN 1/98.

5.2 The majority of motor accidents involving Ministry of Defence vehicles occur within the UK, although Guardian do handle around 40 third party claims each year from UK based vehicles travelling in mainland Europe. Claims arising from non-UK based vehicles overseas are handled by the appropriate Area Claims Officers (ACO) or DC&L(F&S)Claims where no ACO exists in that geographical area. The number of third-party claims received by Guardian and their value is shown in the Table below.

Third-Party Motor Claims

	1995/1996		1996/1997		1997/1998	
Service	Claims Received	Estimate (£)	Claims Received	Estimate (£)	Claims Received	Estimate (£)
Army	2,793	4,379,698	2,732	4,172,955	2,434	2,972,225
Navy	474	362,457	437	461,960	356	291,449
RAF	581	548,905	542	735,583	551	344,019
Other	242	188,532	308	191,573	266	131,112
TOTAL	4,090	5,479,592	4,019	5,562,071	3,607	3,738,805

5.3 Details of the ten highest value claims settled by Guardian Insurance Services (UK) Limited on behalf of the Ministry of Defence in financial year 1997/98 are at Annex E.

SECTION 6

SERVICE PERSONNEL EMPLOYER'S LIABILITY CLAIMS

6.1 Between 8 December 1986 (the date on which it was announced that Section 10 of the Crown Proceedings Act 1947 was to be repealed) to 30 June 1996, claims for compensation from Service personnel were investigated and, where appropriate, settled by DC&L(F&S)Claims. However, following a competitive tender exercise, from 1 July 1996 the handling of claims from Service personnel for personal injury, other than medical negligence, resulting from Ministry of Defence negligence was contracted to Royal and Sun Alliance plc (RSA). Employer's liability claims from Service personnel submitted before 1 July 1996 continue to be dealt with by DC&L(F&S)Claims as well as some other miscellaneous claims.

6.2 In financial year 1997/1998, RSA received approximately 715 claims. Over the same period they settled 40 claims, and paid £985,532 in compensation and associated costs. A total of 148

claims were repudiated or withdrawn. The number settled may appear low but this is because it takes some time to investigate claims before they are either repudiated or paid. Traffic accidents accounted for 118 of the claims received. The second largest category was deafness (61 claims) followed by bullying (12 claims).

Service Personnel Employer's Liability Claims Received

	1995/1996	1996/1997	1997/1998
Number of Service personnel claims received (includes personal injury, medical negligence, etc.)	1,014	924	1,038

Bullying

6.3 The number of claims from Service personnel alleging personal injury as a result of bullying (physical or mental) are relatively small - we have at present about 50 active bullying/abuse related claims. One of the most high profile cases that has attracted media attention over the last year or so relates to eight recruits who suffered ill-treatment at the hands of an officer whilst at the Army Training Regiment, Lichfield, during 1991/2. High Court Writs were served on behalf of the eight former recruits against the Ministry of Defence in late 1996 and the cases are being investigated by RSA.

Post Traumatic Stress Disorder (PTSD)

6.4 The Ministry of Defence recognises that some members of the Armed Forces may, during the course of their careers, be subject to traumatic experiences and may suffer stress as a result. This does not necessarily mean that the Ministry of Defence has been negligent or that the individual will receive compensation. However, the Ministry of Defence does have a duty to ensure that its Service personnel receive proper treatment for stress and, where we fail in this respect and the individual suffers some loss or damage as a result, then that individual may be entitled to compensation.

6.5 Last year, 38 new PTSD cases were received. The majority of these relate to service during the Falkland Islands conflict, but they also include cases relating to service in Northern Ireland, the Gulf War or Bosnia.

Nuclear Test Veterans

6.6 For some years ex-Service personnel who participated in the atmospheric nuclear tests in the late 50s/early 60s claimed that their health had been damaged by exposure (deliberately or accidentally) to ionising radiation. There is no denying that some nuclear test veterans are ill, and some have died. However, despite allegations by a number of veterans to the contrary, there is no evidence of excess illness or mortality amongst the veterans as a group which could be linked to their participation in the tests or to exposure to radiation as a result of that participation. Their task was to provide logistic support (mainly construction work), and certainly not to be the subject of the tests.

6.7 A study into the health of test veterans carried out by staff from the National Radiological Protection Board and the Imperial Cancer Research Fund showed that for the veterans as a group their participation in the nuclear test programme has not had a detectable effect on their expectation of life, or on their risk of developing cancer or other fatal diseases. This study was carried out independently of the Ministry of Defence.

6.8 Two test cases referred to the European Court of Human Rights by the European Commission of Human Rights, (McGinley and Egan -v- UK and LCB -v- UK) were heard on 26 November 1997. The European Court of Human Rights delivered its judgement on 9 June 1998, ruling in favour of the UK.

Radiation Compensation Scheme

6.9 The Ministry of Defence's policy on compensation for past and present radiation workers (both civilian and military) is to be a member of the nuclear industry's Compensation Scheme for Radiation Linked Diseases, which the Ministry of Defence joined in 1994. 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 was set up and is run jointly by the participating employers and Trade Unions and does not affect a claimant's 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.

6.10 The amount of compensation payable in a successful case is determined by negotiation between the solicitors representing the parties, based upon the same guidelines as would apply if the case had proceeded to Court. However, 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 a "full" payment 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.

6.11 During financial year 1997/1998, the Scheme received forty-four enquiries from former Ministry of Defence employees who believe that their illness is associated with exposure to occupational ionising radiation. Over the same period, three claims from former MOD civilian employees were settled (these were the first cases settled since MOD joined the Scheme) and eighty-seven were repudiated (usually on the basis that the illness was not attributable to radiation exposure). The number of claims received for the preceding two years were ten in financial year 1996/97 and twenty-three in financial year 1995/1996.

SECTION 7

MEDICAL NEGLIGENCE CLAIMS

7.1 Claims arise when a patient considers that the advice and/or treatment received fell below acceptable standards because of negligence. To succeed the plaintiff must establish, as in any claim based on negligence, that they were owed a duty of care by the defendant, that the defendant was in breach of that duty due to negligence and that as a result the plaintiff suffered damage. Establishing a duty of care is not difficult in medical negligence cases and any medical practitioner or hospital can reasonably foresee that any breach of care on their part may cause harm to the patient.

7.2 In deciding whether a defendant's medical care fell within an acceptable standard, the courts rely upon the test laid down in the case of *Bolam -v- Friern Hospital Management Committee* (1957), namely that a doctor is not negligent if he/she acts in accordance with a practice accepted at the time by a responsible body of medical opinion even though other doctors adopt a different practice. The "Bolam Test" remains central to issues on liability and causation in medical negligence claims.

7.3 By their very nature medical negligence claims often take a very long time to settle. In many cases the claimant will not wish to agree settlement until the full extent of their disablement is known. This is particularly true in claims involving brain damaged children, born in Service hospitals, where it may take many years before the full extent of their disablement and life expectancy can properly be assessed by medical experts.

7.4 At the end of financial year 1997/98, there were approximately 530 active medical negligence cases, with a potential liability in terms of compensation alone of over £37M. Medical negligence claim statistics are provided in the following Table.

Medical Negligence Claims

	1995/1996	1996/1997	1997/1998
Number of medical negligence claims received	280	243	308
Number of medical negligence claims settled	31	58	58
Compensation plus cost of claims settled (excluding in house staff costs)	£1,759,663	£2,766,821	£3,545,060
Average cost per claim	£56,763	£47,703	£61,121

7.5 The closure of many Service medical facilities should mean that the number of potential incidents giving rise to claims will fall. However, medical negligence claims may take several years to be intimated (the claimant may not even have knowledge of a potential medical negligence incident until several years after the event) and therefore the reduction in claims received is unlikely to occur for several years.

SECTION 8

MOTOR CLAIMS

8.1 The majority of motor claims work undertaken in-house results from accidents involving vehicles hired for official purposes by the Ministry of Defence in the UK. DC&L(F&S)Claims is responsible for handling claims from third parties whose persons or property have been damaged in a road traffic accident and the Ministry of Defence or a Visiting Forces driver is responsible for the accident. Personal injury claims are handled in the same way as other injury claims, and damage claims are settled on production of a bill or an expert's assessment. In certain cases loss of use and depreciation will also be paid. DC&L(F&S)Claims does not pay for damage to Ministry of Defence owned or hired vehicles as this is the responsibility of the unit involved. As DC&L(F&S)Claims' geographical area is so large, 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. 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 Ministry of Defence owned or hired vehicles, and showing that the driver was on duty at the time of the incident) and supporting statements to DC&L(F&S)Claims but unfortunately this frequently does not happen and case managers spend a considerable amount of time locating these essential documents.

8.2 Case managers are required to establish that the Ministry of Defence vehicle was being driven by an authorised driver on an authorised journey and route. If these criteria are met and all the evidence suggests that the Ministry of Defence 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. They show an upward trend which can be attributed to an increased use of hire vehicles by the Ministry of Defence and to improved reporting procedures by units. This upward trend is expected to continue.

Motor Claims

	1995/1996	1996/1997	1997/1998
No of motor claims received (excluding third-party motor claims)	212	296	432
Total costs (excluding in-house administration)	£852,000	£650,000	£893, 000
Average Cost Per Claim (excluding in-house admin)	£4,018.87	£2,195.95	£2,067.13

8.3 The figures for compensation payments made in respect of hire cars which were 'written off' are as follows:

Vehicle Write-Offs

	1995/1996	1996/1997	1997/1998
Vehicles written off	31	21	32
Cost incurred (excluding in-house admin costs)	£174,000	£99,000	£247,000

8.4 The number of claims being received should be taken in the context of the total number of hires (143,000) and miles driven (approximately 43,000,000) each year.

SECTION 9

MARITIME CLAIMS

9.1 Maritime Claims by and against the Ministry of Defence 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 RN property. Maritime law is complex and much of the legislation dealing with the law of the sea was enacted more than ninety years ago.

9.2 The following is an example of a maritime claim settled last year. In September 1996, a Gibraltar Services Police patrol boat was in collision at night with a Spanish owned fishing vessel, the Santa Maria Del Carmen and its tender, in disputed fishing waters off the coast of Gibraltar. The owner of the fishing vessel claimed compensation for damage to his boat of over £12,000. Investigations revealed that the patrol boat was negligently speeding. However, the fishing vessel and its tender were not properly lit. This contributory negligence was taken into account and a final settlement of £6,000 was accepted in June 1997.

Salvage

9.3 The Ministry of Defence 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 by a Ministry of Defence owned ship or aircraft a vessel is saved, the Ministry of Defence 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 Ministry of Defence policy not to claim salvage when life saving has been the main aim of the assistance given.

9.4 The following case illustrates how long it can sometimes take to resolve a claim for salvage. In July 1993, the tanker Avon ran aground in Stokes Bay near Gosport. She was subsequently towed to a safe anchorage by RMAS vessels and salvage was claimed on behalf of the Ministry of Defence and the crews of the vessels concerned. Unusually, the owners of the Avon did not agree that the services of the RMAS amounted to salvage. The claim was pursued in the High Court where an award was made to the Ministry of Defence amounting to £120,000. On the recommendation of the Treasury Solicitor, a distribution of the salvage monies was made in November 1997. The Ministry of Defence retained £98,000 and £22,000 was shared by the crews of the RMAS vessels.

9.5 Maritime/Salvage statistics for the last three years are shown in the Table below.

Maritime/Salvage Claims

	1995/1996	1996/1997	1997/1998
Number of maritime claims received (excluding those handled by FOST and FOSNI)	82	53	49
Amount Recovered	£225,000	£125,000	£52,000
Number of Salvage Claims Received	10	4	13
Amount Recovered	£795,000	£146,000	£671,000

SECTION 10

MILITARY LOW FLYING CLAIMS IN ENGLAND, SCOTLAND AND WALES

10.1 Military low flying activities sometimes result in claims for compensation from members of the public. Claims are most often received for injured livestock and/or property damage but sometimes for personal injury. Although many of the claims are for relatively small amounts, military low flying is controversial in some areas of the country. Although investigated on the basis of legal liability, all low flying claims are settled on an ex-gratia basis. DC&L(F&S)Claims handles military low flying claims on an ex-gratia basis which is founded on the premise that the Royal Prerogative gives an absolute right for all military flying activity and, therefore, an injured party has no legal rights of redress for compensation. This approach was set out in a Lords Written Answer by Lord Drumalbyn on 22 November 1971 (Official Report Column 888) thus:

"... 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."

10.2 In June 1994, a procedure was introduced in consultation with various farming unions and landowners' associations for processing claims relating to death or injury of livestock. Under this procedure farmers should report the incident promptly, provide veterinary evidence and a fully quantified claim.

10.3 Unfortunately, this is a category of work which requires careful monitoring to identify potentially fraudulent claims. In December 1997, a claimant was found guilty of fraud and sentenced to twenty-one months imprisonment. In a separate incident another claimant pleaded guilty to fraud and was sentenced to three-hundred hours community service and to repay £1,825 to the Ministry of Defence.

10.4 In an effort to improve public relations, RNAS, AAC and RAF Station Commanders have been given delegated authority to settle straightforward claims up to £200 if a claimant lives within two miles of the airfield. In addition, the Chief Claims Officer has given Regional Community

Relations Officers (RCROs) the authority to recommend fast track settlements for simple claims up to a value of £250.

10.5 Low flying claims statistics for England, Scotland And Wales are shown in the Table below.

Low flying claims statistics for England, Scotland And Wales

	1995/1996	1996/1997	1997/1998
Number of military low flying claims settled	214	171	171
Compensation plus cost of claims settled (excluding in house staff costs)	£374,000	£459,000	£263,000
Average cost per claim	£1,748	£2,684	£1,553.57

10.6 The number of mainland low flying claims settled in 1997/1998, compared to 1995/1996, fell due to a reduction in the size of the RAF and the number of US military aircraft stationed in the UK, as well as fewer NATO flying exercises. Interestingly, many of the new claims received, although relatively low in value, were complex and there is an increasing tendency for claimants to claim for losses which can only remotely be connected to low flying.

SECTION 11

PUBLIC LIABILITY CLAIMS

11.1 Public liability claims are submitted by third parties. The majority of claims are for personal injury or the loss of or damage to property. Most personal injury claims are from members of the public or contractors injured on Ministry of Defence property but can also be from individuals participating in 'Keeping the Army in the Public Eye', Executive Stretch, recruiting activities, etc. which are not covered by insurance.

11.2 Property claims usually result from damage to private belongings on Ministry of Defence land or in married quarters, often because of a lack of maintenance resulting in buildings being flooded, moth infestation, falling roof tiles, falling trees, drain covers collapsing, etc. Some of the more expensive claims result from negligence on Ministry of Defence property resulting in flood or pollution to adjoining private property.

Public Liability Claims

	1995/1996	1996/1997	1997/1998
Number of military PL claims settled	549	612	614
Compensation plus cost of claims settled (excluding in house staff costs)	£1.435M	£1.115M	£6.973M
Average cost per claim	£2,613.84	£1,821.90	£11,356.68

11.3 The total and average amount paid in 1997/1998 was much higher than in the earlier years because compensation paid in respect of the Chinook helicopter that crashed in June 1994 accounted for £5.163M.

Public Liability Claims - Northern Ireland

11.4 For security reasons, all Northern Ireland public liability claims of a political and/or sensitive nature are handled by DC&L(F&S)Claims. Claims mainly result from the on duty contact which military personnel have with members of the public. The majority of claims are for assault, baton round injuries, harassment, shootings and wrongful arrest. Some claims are very high profile, such as the shooting of alleged terrorists by the Security Forces. Compensation payments are usually subject to a Terms Endorsed clause whereby each side agrees not to disclose specific details once settlement has been reached. Examples of claims settled in 1997/1998 are: £300 paid to a man unlawfully detained by the Security Forces; £850 paid to a woman struck by a plastic baton round, and £4,000 paid to a man assaulted by the Security Forces. The higher profile cases can be particularly contentious and a number are currently awaiting hearing by the European Court.

11.5 It is extremely important that the quality of written and oral evidence given by military personnel is of a high standard because sometimes people appear to describe a totally different incident.

Public Liability Claims arising in Northern Ireland

	1995/1996	1996/1997	1997/1998
Number of claims settled	87	112	97
Compensation plus cost of claims settled (excluding in house staff costs)	£483,000	£326,000	£292,000
Average cost per claim	£5,551.72	£2,910.71	£3,010.31

11.6 The reduction in claims received in 1997/1998 as compared 1996/1997 was almost certainly due to the cease fire, which in turn led to less military activity in support of the RUC. It is of course hoped that the situation in Northern Ireland will continue to improve.

Visiting Forces Claims

11.7 DC&L(F&S)Claims handles third party claims by and against Visiting Forces based in or visiting the United Kingdom under the provisions of Article VIII Section 5 of NATO 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 two agreements, 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 Ministry of Defence pays compensation on their 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%. The vast majority of Visiting Forces cases result from road traffic accidents.

Visiting Forces Claims

	1995/1996	1996/1997	1997/1998
Number of visiting forces claims settled	71	77	66
Compensation plus cost of claims settled (excluding in house staff costs)	£177,000	£318,000	£328,000
Average cost per claim	£2,495.20	£4,132.47	£4,969.53

11.8 The modest decrease in the number of claims received is attributed largely to a reduction in the number of US military aircraft stationed in the UK, and to a reduction in NATO flying exercises.

SECTION 12

SERVICE PERSONNEL INDUSTRIAL TRIBUNAL CLAIMS

12.1 In addition to common law claims, DC&L(F&S)Claims also handles claims relating to Industrial Tribunal applications brought by current or former Service personnel. Industrial Tribunals (ITs) are independent judicial bodies but their procedures are quite unlike those of other Courts. They are intended to be relatively simple and informal; lawyers are not always involved as some applicants choose to represent themselves. Claims brought typically involve allegations of unfair dismissal, sexual/racial discrimination or sexual/racial harassment. Whilst the single Service secretariat branches will initially receive and investigate Industrial Tribunal applications, they have no delegated financial authority to settle them and claims can only be settled by obtaining the agreement of DC&L(F&S)Claims who hold funds centrally. IT applications made by the Department's civilian employees are handled and settled by the appropriate Civilian Personnel Management Authority. There is no DC&L(F&S)Claims involvement with such claims. As from 3 August 1998, Industrial Tribunals have been referred to as Employment Tribunals.

Equal Pay

12.2 In 1997/1998, 17 claims were received which involved either equal pay, redundancy or pensions matters. Six claims were settled within the year at a cost of £51,000, all of which involved claims from female Army personnel on R&S type engagements who had been posted to Army Recruiting Offices but received lower rates of pay than their male counterparts. Eight claims have either been repudiated or withdrawn by the applicant prior to a hearing being set and 3 cases involving pension matters remained active at 31 March 1998.

Sex Discrimination

12.3 In 1997/1998, 139 claims were received alleging discrimination. Eleven of these claims also involved allegations of sexual harassment. Sixteen sex discrimination cases were settled during the year at a cost of £271,000 and 26 cases have either been repudiated, withdrawn by the applicants prior to a hearing or struck out by the IT.

Pregnant Servicewomen

12.4 The Ministry of Defence received a total of 5,038 valid claims from women who had been dismissed from the Armed Forces during the period August 1978 to August 1990 when the practice ceased and maternity leave was introduced. Over half of the eligible applicants settled their claim on the basis of a formula offer which took account of financial loss prior to confinement plus loss of maternity leave only. Most of the others, who claimed that but for their dismissal they would have continued in service after giving birth, settled amicably and did not take their case to an industrial tribunal. In the event just under 500 women refused to settle without a hearing and their cases were decided by a tribunal. The awards ranged from nil in a number of cases up to £455,000. Despite wide media attention being given to the few very large awards, the overall average settlement was £11,455. A few cases remained unresolved at the end of 1997/1998 as their final outcome was dependant upon a ruling in the Court of Appeal which took place in December 1997. The total compensation paid was a little over £58M.

Sexual Harassment

12.5 In 1997/1998, 11 claims were received alleging sexual harassment. Five sexual harassment claims were settled during the year at a cost of £173,614. Some of these cases by their very nature have attracted wide media attention, particularly in the tabloid press, and several of the awards in cases of proven harassment have been large - one settled at £85,000. Where the legal advice is that we should settle claims, every reasonable effort is made to reach an amicable agreement prior to a Tribunal hearing. Tribunals have clearly demonstrated that they take a very serious view of harassment, which is considered unacceptable. A simple "initiation ceremony" or mild beating can often amount to bullying and is considered as such by Tribunals.

Racial Discrimination

12.6 In 1997/98, 14 claims were received alleging racial discrimination, of which 5 also involve allegations of racial harassment. No compensation was paid during the year and 5 cases have either been withdrawn by the applicants or struck out by the IT.

Racial Harassment

12.7 In 1997/98, 5 claims were received alleging racial harassment. No compensation was paid during the year and 3 cases have either been withdrawn by the applicants or struck out by the IT.

Homosexuals

12.8 The Ministry of Defence received a total of 84 claims in 1997/98 from men and women who allege that they were dismissed from the Armed Services solely on the grounds of their sexuality. In a recent ruling, concerned with equal pay as opposed to an equal treatment matter, the European Court of Justice (ECJ) stated that provided male and female homosexuals were treated equally, no breach of European legislation had taken place. If this decision were to be carried over into equal treatment claims, then it is more likely than not that the Ministry of Defence would win a homosexual test case currently awaiting a hearing (a decision in which is expected during the summer of 1998).

Should the ECJ, however, rule against the Ministry it is estimated that up to 1,000 claims from homosexuals could be submitted at a cost to the Department of up to £100M.

Update by Chief Claims Officer

You will wish to be aware that on 13 July 1998 in the High Court Mr Justice Lightman withdrew the reference to the ECJ in Perkins on the basis that the decision of the ECJ in Grant v South West Trains Ltd had sufficiently answered the questions raised when it decided that the Equal Treatment Directive does not afford protection against discrimination on the grounds of sexual orientation. Having been refused leave to appeal by Mr Justice Lightman, Mr Perkins' solicitors have indicated that they do not intend to take this matter to the Court of Appeal, effectively marking the end of Mr Perkins' claim in the domestic courts.

Accordingly, the position with regard to the other stayed homosexual cases is that letters have been sent to all Applicants or, where applicable, their legal representatives inviting them to withdraw their applications. Indeed, two have already done so. Should they refuse to do so steps will be taken to have the claims struck out by the Tribunal as disclosing no reasonable cause of action.

SECTION 13

CLAIMS ARISING FROM OVERSEAS OPERATIONS AND EXERCISES

13.1 Operational claims arise from the deployment of troops to such theatres as the former Yugoslavia, the Gulf, Namibia or from overseas training exercises such as Purple Star and Ulan Eagle in 1996. The full range of claims can result from such operations but experience has shown that the vast majority result from road traffic accidents and property damage. Combat related claims and those for wear and tear to roads are routinely rejected. If the operation is carried out under NATO SOFA or a Memorandum of Understanding, we are obliged to consider ex-gratia claims resulting from the off duty activities of Service personnel. On large scale or long term operations and exercises it is likely that a claims officer will be deployed within the Civil Secretariat.

SECTION 14

AREA CLAIMS OFFICERS

ACO Northern Ireland

14.1 The majority of compensation claims handled by ACO Northern Ireland in 1997/1998 related to military helicopter activity and usually concerned the loss of livestock/bloodstock and alleged damage to property. Other main heads of claim were damage to property such as cut fences, broken farm gates, etc. usually caused by military personnel on operational duty, and personal injury claims from third parties. ACO Northern Ireland does not handle politically

sensitive claims: i.e. shooting, assault, wrongful arrest or personal injury resulting from the actions of military personnel on duty. The numbers of claims received over recent years is shown in the Table.

ACO Northern Ireland

	1995/1996	1996/1997	1997/1998
Number of claims received	1,687	901	1,052
Number of claims closed	1,656	908	1,122
Total Paid	£2.691M	£1.179M	£1.342M

ACO North West Europe

14.2 ACO NWE at JHQ Rheindahlen is responsible for handling claims by and against the Ministry of Defence in Germany, Norway, Denmark, Holland, Belgium, Luxembourg, France, Austria and Switzerland. ACO NWE also acts as agent for the Danish Government and all the Ministry of Defence sponsored organisations located in North West Europe. The organisation handles three major areas of claims work: traffic accidents; training and manoeuvre; and miscellaneous. Claims are processed in accordance with Article VIII(5) of the NATO Status of Forces Agreement and Article 41 of the Supplementary Agreement. Claims are dealt with by the appointed agency in each of the countries in accordance with the laws and regulations of that country and in close liaison with the ACO NWE staff.

14.3 Settlements are negotiated by the host nation (if a NATO partner) which bills the UK, half yearly, for 75% of the total paid. It is in the interest of the Host Nation to keep costs as low as possible as they pay the other 25%.

ACO North West Europe

	1995/1996	1996/1998	1997/1998
Number of claims received	1,911	1,444	1,613
Number of claims closed	2,144	1,589	1,404
Total Paid	£3.122M	£3.906M	£3.4M
Total Recovered	£872,000	£995,000	£726,000

ACO Cyprus

14.4 Two Claims staff are responsible for all claims by and against the Ministry of Defence within the geographical area of Cyprus and its territorial waters. A similar range of claims are handled to those received by ACO North West Europe but, in addition to NATO SOFA, the Cyprus Treaty of Establishment also applies. Advice and assistance is provided by DC&L(F&S) Claims when requested and those claims where proceedings have been issued in the UK, or those likely to exceed £50K, are transferred to DC&L(F&S) Claims to handle.

ACO Cyprus

	1995/1996	1996/1997	1997/1998
Number of claims received	419	418	364
Number of claims closed	395	348	311
Total Paid	£536,000	£284,000	£218,000
Total Recovered	£21,000	£26,000	£32,000

Claims Officer Split

14.5 The majority of claims arising in theatre relating to SFOR activities result from road traffic accidents, but there are some personal injury, property damage and training and manoeuvre claims. The Claims Officer is authorised to handle reinstatement, third party personal injury and property damage claims up to £10,000. Claims are handled in Croatia and Bosnia and it is necessary for the Claims Officer to make regular visits to Banja Luka, Zagreb and Sarajevo and represent UK interests at the Claims Tribunal and Commission. Claims handling follows NATO SOFA procedures, but the Dayton Agreement and MOUs between SFOR and the host nations also apply.

Claims Officer Split

	1995/1996	1996/1997	1997/1998
Number of claims received	Not available	566	270
Number of claims closed	Not available	410	152
Total Paid	£104,000	£342,000	£611,000
Total Recovered	Nil	Nil	Nil

Claims Officer Falkland Islands

14.6 In the Falkland Islands, the Claims Officer has authority to handle claims up to a value of £50,000. Claims are handled in accordance with local law which is, in fact, identical to English law. As can be seen from the Table below, in financial year 1997/1998, very few claims were received and settled.

Claims Officer Falkland Islands

	1995/1996	1996/1997	1997/1998
Number of claims received	3	3	8
Number of claims settled	3	3	7
Total Paid	£6,923.78	£1,637.77	£5,235
Total recovered	£96.46	£1,344.88	£1,713

SECTION 15

SPEND ON BEHALF OF TOP LEVEL BUDGET HOLDERS

15.1 The present DC&L(F&S)Claims management information system was progressively developed and introduced to meet the specific needs of the Branch: i.e. to support claims handling and administration. Because of this, there are shortcomings in the ability to link individual claims to Top Level Budget (TLB) areas. It is hoped that this weakness will be overcome for future claims by the introduction of a new in-house computer system which is planned to be implemented in March 1999. The new system will also help to identify the full costs of claims as required by resource accounting Customer Supplier Agreements (CSAs). However, difficulties will remain for claims already received.

SECTION 16

FINANCIAL RECOVERIES

16.1 Where the Ministry of Defence sustains loss or damage to equipment which has been caused by a third party, DC&L(F&S)Claims seeks to recover those losses from the third party. A contract is in place with Willis Corroon Ltd to handle these claims in the UK. Recovery claims world-wide, except where there is an Area Claims Officer, are handled by DC&L(F&S) Claims. The main causes for taking action against third parties is where Ministry of Defence static property has been damaged by fire, negligence of a contractor, traffic accidents overseas; damage to Visiting Forces vehicles and static property in the UK. Additionally, DC&L(F&S)Claims will take over the responsibility for a claim when Willis Corroon have failed to recover and decide if legal action to recover is appropriate.

16.2 The number of recoveries processed by DC&L(F&S)Claims in each of the last three financial years is shown in the following Table.

Recoveries

	1995/1996	1996/1997	1997/1998
No of claims notified	50	21	22
No of successful recoveries	28	19	12
Amount recovered	£114,000	£19,000	£32,000

16.3 This report covers a period where our contracted out recoveries were handled by two different companies - Aon Risk and Willis Corroon. Between them they received approximately 600 recovery actions in the last year and recovered approximately £450,000.

SECTION 17

INSURANCE AND INDEMNITIES

Insurance

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

17.2 DC&L(F&S)Claims takes the policy lead on all Ministry of Defence non-contractual insurance issues and encourages units and establishments to transfer risks arising from non-core activities away from the Department.

17.3 In November 1997, DC&L(F&S)Claims placed a contract with Willis Corroon (Aerospace) Ltd for the provision of insurance for four specific non-core aviation risks which are self-financing:

- Military aircraft attendance at air displays
- Civil use of military airfields
- Search and rescue training with civilian organisations
- Fare paying passengers on military aircraft and fare paying passengers travelling in MOD aircraft.

Indemnities

17.4 DC&L(F&S)Claims is responsible for all non-contractual indemnity matters, ranging from issuing indemnities to land owners who are letting the Armed Forces use their land for exercises to commenting on different clauses within DEO licences, indemnity provisions within MOUs and other international arrangements.

17.5 The Ministry of Defence always seeks an indemnity against claims arising from activities or events that are not considered to be core business, or when activities or events do not further the interests of the Department. The Ministry of Defence must seek 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 for those companies/organisations that self insure. The only exceptions to the requirement for indemnity are when the Ministry of Defence is dealing with other Government Departments. This is because of the principle of indivisibility of the Crown.

17.6 DC&L(F&S)Claims issued approximately seventy-five indemnities in 1997/1998 and commented on approximately one hundred other indemnity related issues.

17.7 Indemnities that arise from the Department's contractual business are the responsibility of the appropriate Contracts Branch, with policy guidance provided by the Procurement Executive (ADC/Pol2).

SECTION 18

DEVELOPMENTS IN LAW AND PRACTICE

Social Security Benefit Recoupment

18.1 Since 1990, there has been a statutory scheme intended to enable the state to recover certain social security benefits from compensators in order to ensure that claimants do not effectively get the benefits twice. In October 1997, new legislation was enacted (The Social Security (Recovery of Benefits) Act 1997, The Social Security (Recovery of Benefits) Regulations 1997 and The Social Security (Recovery of Benefits) (Appeals) Regulations 1997, and similar legislation for Northern Ireland) which work in broadly the same way as previous legislation. However, important changes were introduced designed to be fairer to claimants and to recoup more benefits from compensators. The net effect on the Ministry of Defence has been to increase the cost of claims relating to personal injury.

Civil Justice Changes

18.2 Important changes to the way personal injury compensation claims will be handled are expected to be introduced in England and Wales with effect from 1 April 1999. The changes are mainly designed to improve access to justice and to reduce the complexity of court rules. The underlying objective is to persuade the parties to isolate the areas in dispute at a far earlier stage than they do at present. This change in philosophy will be imposed by the courts, who will accept a far greater responsibility for the management of litigation. As part of the changes, cases will have to be dealt with far more quickly than they are at present. This will mean that it will be even more important for Units, Establishments and individuals to respond promptly to requests from DC&L(F&S)Claims and their private sector service providers for information to help establish the merits of a claim. For example, once a claim has been notified, it will be up to the Ministry of Defence to respond to it substantively within three months. If liability is denied, the reasons for the denial should be put forward. On occasions, it can now take much longer than three months to investigate a claim because Units and establishments fail to respond to enquiries. Further information on the new procedures and the implications for the Ministry of Defence will be published in a DCI in 1998.

Counsel to Counsel Settlement Conferences

18.3 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 court

room door. A round table consultation is arranged with the Department represented by counsel, the Chief Claims Officer or Senior Claims Officer and Treasury Solicitor. This method of negotiated settlement has had a significant effect on the way claims are handled due to the plaintiff 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 plaintiff 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.

18.4 In 1997/1998, for example, two such conferences were held and compensation totalling £2.9M was agreed. Had these cases run to court, the legal costs payable by the Ministry of Defence would have been significantly higher.

ANNEX A

DC&L(F&S)CLAIMS STAFF, PROGRAMME AND OPERATING COSTS - FINANCIAL YEAR 1997/1998

Costs

Operating Costs	-	£842,694
Programme Costs	-	£69,217,545 (compensation, legal costs, fees)
Total Costs	-	£70,060,239

DC&L(F&S) Staffing as at 31 March 1998

GRADE	NUMBER	ROLE
7	1	Chief Claims Officer
SEO	1	Senior Claims Officer
SEO (Part time)	1	IIP Implementation for the Division
HEO	4	Section Head
EO	16	Case Manager
EO	2	Indemnities, Insurance, civilian staff employer's liability claims and third party motor.
EO	1	Directorate Budget Manager and Management Planner
EO	1	Branch Finance and Information Technology
AO	6	Case Manager
AO	2	Administrative Support
AA	4	Administrative Support

ANNEX B

DC&L(F&S)CLAIMS RESPONSIBILITIES

DC&L(F&S)Claims is primarily responsible for processing common-law, non-contractual compensation claims against and on behalf of the MOD at home and abroad. They are not responsible for contractual, quasi-contractual, sales or estates matters. DC&L(F&S)Claims is split into four sections as follows:

Claims 1

- **Financial management**
Responsible for the Budget management and financial planning for DC&L(F&S) and the financial management of C&L(F&S)Claims.
- **Information technology systems**
Responsible for the C&L(F&S)Claims information technology (IT) systems (CHOTS, TAURUS, CHASP, CHAD).
- **Non-contractual insurance**
Responsible for non-contractual insurance (principally non-core aviation risks), including liaison with MOD's insurance brokers, indemnities and the claims aspects of MOUs.
- **MOD Civilian employees employer's liability and third party motor claims**
Policy relating to MOD civilian employees employer's liability claims and Third party motor claims handled on behalf of the MOD by Guardian Insurance Services (UK) Ltd.
- **Risk management**
Information on risk analysis and reduction. Risk management statistics.
- **Regulatory claims policy**
Regulatory claims are claims from employees for loss of or damage to personal property in the course of their employment. Claims 1 is responsible for the claims handling policy.
- **DC&L(F&S)Claims administration**
Claims co-ordination and Focal Point (i.e. Registry functions).

Claims 2

- **Service personnel employer's liability claims**
Responsible for the handling of Service personnel and ex-Service personnel employer's liability claims received before 1 July 1996 and managing the contract with Royal and SunAlliance who have dealt with this type of claim post 1 July 1996.
- **Section 10 claims**

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

- **Radiation claims**
Claims for compensation due to illness alleged to have been caused by exposure to radiation.
- **Gulf War illness**
Potential claims for alleged Gulf War illness
- **Miscellaneous claims**
Miscellaneous claims from Service and ex-Service personnel including defective enlistment, false prosecution, unlawful detention.

Claims 3

- **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).
- **Low flying**
Claims relating to military low flying in England, Scotland and Wales.
- **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.
- **Maritime claims**
Maritime claims including accidents, salvage, collisions and damage to fishing gear (excluding maritime claims involving damage to property abroad).
- **Vehicle claims**
Privately owned vehicle damage claims and hired vehicle loss of use and write off claims.
- **Overseas operations**
Claims policy relating to overseas operations and advice to Area Claims Officers in Northern Ireland and overseas.

- **Ex-gratia payments**
Responsible for ex-gratia payments, including the DERA no-fault compensation scheme.
- **Criminal injuries compensation**
Responsible for criminal injuries compensation claims from MOD Civil Servants' dependants' based overseas.
- **Non-maritime recoveries**
Recovery of MOD's uninsured financial losses.

Claims 4

- **Industrial Tribunals**
Responsible for co-ordinating the MOD's response to claims put to Industrial Tribunals by current and former Service personnel.
- **Medical Negligence**
Responsible for all claims for compensation where MOD is deemed responsible for medical negligence.

ANNEX C

AN INTRODUCTION TO LEGAL LIABILITY AND CLAIMS SETTLEMENT

1. As part of DC&L(F&S)'s commitment to improve the level of legal awareness within the Ministry of Defence, this Annex is intended to provide an introduction to the concept of legal liability and common law claims settlement. It should not be relied upon as being definitive legal advice.

2. Common law compensation claims made against the Ministry of Defence are usually considered in accordance with the Department's legal liability. The area of the law concerned is known as 'tort' and within this we are usually concerned with the tort of negligence. The tort of negligence is the breach of a legal duty to take care which results in damage, undesired by the Defendant (in our case usually the Ministry of Defence), to the Plaintiff (the claimant). Thus there must be:

- a. A legal duty of care on the part of the Defendant towards the Plaintiff to exercise care in his conduct towards the Plaintiff;
- b. a breach of that duty by the Defendant;
- c. consequential damage/loss to the Plaintiff which is reasonably foreseeable.

3. It is important to note that common law cases are decided on the balance of probabilities, whereas criminal law cases are tried and prosecutions made where the circumstances are beyond all reasonable doubt.

4. When dealing with claims, DC&L(F&S) Claims staff consider whether there has been a negligent act or omission on the part of the Ministry of Defence which has resulted in injury, loss or damage to the claimant. They take legal advice where necessary and must do so if the value of the claim is likely to be more than £10,000. The Ministry of Defence must be prepared to take a case to court if a negotiated settlement cannot be reached or when there is an unresolved issue on liability.

Employer's Liability

5. As an employer, the Ministry of Defence may be legally liable for someone's loss on the basis of Common Law negligence. Alternatively, the Ministry of Defence may be vicariously liable to the injured employee or member of the public where the injury was caused by the negligence of another employee who was acting in the course of his employment. For example, the Ministry of Defence may be vicariously liable for the driver of a Ministry of Defence vehicle who negligently caused a road accident whilst on duty.

Duty of Care

6. Lord Atkin stated that a duty of care could be defined as follows:

"You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be - persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question."

Breach of Duty of Care

7. The test for deciding whether there has been a breach of duty is as follows:

Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.

8. This is commonly referred to as the objective, 'reasonable man' test.

Burden of Proof

9. The burden of proof is on Plaintiffs: i.e. they have to show that there were specific acts or omissions on the part of the Defendant which qualify as negligent conduct. Sometimes, however, the circumstances are such that the Court will be prepared to draw an inference of negligence against the Defendant from the very facts: i.e. the facts speak for themselves. It is then for the Defendant to prove that he has not been negligent. The Plaintiff will have established negligence if he shows that he is owed a duty of care and that there has been a breach of that duty of care. The Plaintiff must have suffered damage as a result of the incident or accident complained of.

Contributory Negligence

10. Where a Plaintiff has sustained injuries or loss as a result of their own action or inaction as well as that of the Ministry of Defence, then a portion of the blame will be attributed to the Plaintiff resulting in a reduction of damages: i.e. the amount of compensation paid. This principle is governed by the Law Reform (Contributory Negligence) Act 1945.

Legal Advice

11. Legal advice is obtained by DC&L(F&S) Claims from the Ministry of Defence's Legal Adviser (LA) and his staff if advice of a general legal nature is needed or on an aspect peculiar to the Ministry of Defence. However, for compensation cases being brought by solicitors in England and Wales, legal advice is obtained from Treasury Solicitor. In Northern Ireland advice is provided by the Crown Solicitor. Service Level Agreements cover the responsibilities of the Treasury Solicitor and Crown Solicitor to the Ministry of Defence and vice versa. In cases being heard in

Scotland, advice is provided by Robson McLean Solicitors under contract to the Ministry of Defence.

Damages

12. The remedy in a personal injury claim is damages. The award of damages is designed to put the plaintiff into the position he was in immediately before the tort was committed. This is an artificial concept in a personal injury case as, for example, where the plaintiff has lost a limb in an accident, no amount of money will replace that limb. In practice it means that financial compensation will be awarded to cover any additional costs that the Plaintiff has and is likely to incur, as well as past and future financial losses. He will also receive compensation for his pain and suffering.

13. This point has been eloquently expressed by Lord Woolf, Master of the Rolls:

“How can anyone presume to tell the victim of another’s fault that the resulting paralysis is worth a particular sum of money? Putting a price on the loss of an eye or of a limb is a task which for many may seem distasteful, but since the law cannot restore sight or mobility, it can only value physical and other injuries in monetary terms.”

Limitation

14. The Limitation Act 1980 sets out the time limits within which certain claims must be made. The normal rule is that a plaintiff has 6 years except in personal injury cases from the date of the cause of action accrued (i.e. from the date of the commission of the tort), in which to present his claim. In negligence cases, since negligence is only actionable on proof of damage, the action in negligence accrues only when some damage occurs.

15. Section 11 of the Act provides that in personal injury claims the normal rule is within 3 years of the date on which the cause of action accrued (i.e. date of accident) or 3 years from when the Plaintiff knew, or might reasonably be expected to have known, certain specified facts. Good examples of the latter are deafness and asbestosis where the effect does not immediately follow the cause, as opposed for example to a broken leg.

ANNEX D

'TOP TWENTY' (BY VALUE) CASES SETTLED BY DC&L(F&S)CLAIMS IN FINANCIAL YEAR 1997/1998

CLAIMANT	TYPE OF INJURY/LOSS - WHERE INJUR/LOSS SUSTAINED	COMPENSATION
Army	Tetraplegic. Assault Course accident	£1,737,500.00
Army	Quadriplegic. King of the Ring "Game"	£1,704,675.70
Civilian	Woman brain damaged at birth due to negligence of Service Doctor at RN Hospital Haslar	£1,700,175.31
Royal Marine	Serious head injuries. Road accident (Op HAVEN)	£1,541,836.50
Civilian	Boy brain damaged at birth due to negligence of Service Doctor at BMH Munster	£1,200,000.00
Army	Severe neck injury/paralysis caused in road accident	£1,050,415.00
Army	Brain damage. Participating in official boxing championships without prescribed safety headgear	£960,816.73
Army	Multiple injuries. Negligent discharge of weapon	£850,000.00
Civilian company	Damage to Tug hit by HMS Illustrious	£800,000.00
Civilian dependant(s)	Fatality. Puma Helicopter crash	£713,125.00
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£709,032.78
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£700,000.00
Army	Multiple injuries. Road traffic accident	£678,333.70
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£653,370.00
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£650,000.00
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£605,117.12
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£604,754.45
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£603,000.00
Army	Broken neck. Fell from top of lorry during camouflaging exercise	£600,000.00
Civilian dependant(s)	Fatality. Mull of Kintyre Chinook helicopter	£600,000.00

ANNEX E

'TOP TEN' (BY VALUE) MOD CIVILIAN EMPLOYEES EMPLOYER'S LIABILITY AND THIRD PARTY MOTOR CLAIMS CASES SETTLED BY GUARDIAN INSURANCE IN FINANCIAL YEAR 1997/1998

ACCIDENT DETAILS	SETTLED
In November 1994, a Ministry of Defence vehicle turned into the path of a vehicle being driven by a member of the public resulting in a serious accident which left the driver of the non-Ministry of Defence vehicle with numerous injuries including a fractured skull and broken ribs. He was unconscious for eight days and in intensive care on a life support machine. After he had regained consciousness and undergone considerable rehabilitation the individual's injuries were as follows; mild loss of control of his arm and leg, reduced concentration and memory, emotional and behavioural difficulties, deafness in one ear and double vision in one eye. The claimant was self employed and while there was a considerable claim for future loss of earnings, it was considered that he would be capable of some work.	£222,823
A mechanic was lifting a vehicle part with his colleague when his colleague dropped it leaving the claimant to take the full weight which resulted in an injury to his back. The claimant will be unable to carry out any physically demanding employment in the future.	£200,445
A Ministry of Defence policeman on night patrol tripped over a rubber ring which was concealed in a pile of leaves. This resulted in a twisting injury to his knee and bruising to his hip. The claimant was medically retired although he would be capable of sedentary employment.	£175,558
A Royal Fleet Auxiliary engineer was assisting moving a pump which had been placed on a trolley. The trolley was unable to fit through a gap so the engineer and his colleague lifted the pump from the trolley and dragged it into position. The engineer injured his back in the process and was medically retired.	£172,321
A fitter employed at the former Portsmouth Dockyard was exposed to asbestos in the early 1960's. He later developed mesothelioma which led to his medical retirement.	£169,256
A fitter employed by PSTO(N) Portsmouth was sawing a bolt using a hacksaw when he cut his finger. He was sent to the medical centre but was refused access as a Nuclear Test Exercise was being undertaken. Because of the delay and the subsequent treatment he received in the medical centre, the condition of the fitter's finger deteriorated. The tendons in his index finger had been lacerated and repair was unsuccessful. Therefore, the finger had to be amputated and the fitter was later medically retired.	£157,471
An electrical fitter employed at the former Portsmouth Dockyard from 1963 to 1997 was exposed to asbestos during the early years of his employment and subsequently contracted mesothelioma.	£142,314
A coppersmith employed at Rosyth Dockyard from 1960 to 1987 was exposed to asbestos in his early career with the MOD and later contracted mesothelioma.	£131,451
A shipwright employed at Chatham Dockyard from 1944 to 1982 was exposed to asbestos in the early years of his employment and subsequently contracted mesothelioma.	£120,638
An electrical fitter employed between 1944 to 1989 was exposed to asbestos where he later contracted mesothelioma.	£114,148

ANNEX F

'TOP TEN' (BY VALUE) SERVICE PERSONNEL EMPLOYER'S LIABILITY CLAIMS SETTLED BY ROYAL AND SUN ALLIANCE IN FINANCIAL YEAR 1997/1998

ACCIDENT DETAILS	SETTLED
Road accident resulting in fractured ribs and multiple cuts to head and body	£17,000
Slipped on wet floor resulting in right ankle fracture that required pinning and plating	£6,080
Multiple soft tissue injuries following road accident	£6,000
Minor head injuries including some hearing loss following fall from bicycle	£5,045
Road accident resulting in whiplash and low back injuries	£4,250
Tyre explosion resulting in fracture and dislocation of two fingers	£4,000
Road accident resulting in whiplash and cuts to the face	£3,750
Soft tissue injury to low back and cuts and bruising to leg following fall during IS training	£3,500
Road accident resulting in back, knee, chest and face injuries	£3,000
Equipment fell on hand causing crush injury to finger	£2,250

Note: Royal and Sun Alliance took over responsibility for Service personnel employer's liability claims from 1 July 1996. Because serious personal injury claims take many months to settle only the more straightforward cases were settled in 1997/1998.

DC&L(F&S)CLAIMS ANNUAL REPORT 1997/1998

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