



Ministry of Defence

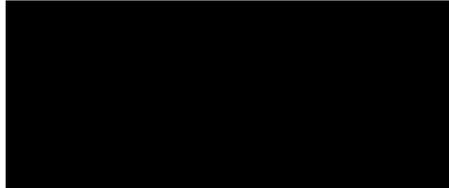
Ministry of Defence
Main Building
Whitehall
London SW1A 2HB
United Kingdom

Our Ref: FOI2016/03987

Telephone [REDACTED]

E-mail: [REDACTED]

Your Ref:



03 May 2016

Dear [REDACTED]

Thank you for your letter dated 05th April 2016 requesting information under the Freedom of Information Act 2000 (FOIA) relating to claims made by Iraqi and Afghan nationals against the Ministry of Defence (MOD) from 1st January 2003 to 31st December 2015. You have specifically asked for the following information:

(A)

2. Number of claims received under the Human Rights Act

Please can you state the total number of claims received by the MoD during the above period, in respect of alleged breaches of the Human Rights Act by British forces overseas

- (a) from Iraqi nationals or their families*
- (b) from Afghani nationals or their families.*

3. Number of claims settled by payment of damages under the Human Rights Act Of the total claims received under (2), how many resulted in the MoD paying damages to

- (a) Iraqi nationals or their families*
- (b) Afghani nationals or their families?*

4. Number of payments under (3) paid in connection with UK civil court proceedings Of the total number of payments made under (3) above, how many were paid in connection with UK

civil court proceedings under the Human Rights Act, to

- (a) Iraqi nationals or their families*
- (b) Afghani nationals or their families?*

5. Number of payments under (3) made following internal adjudication by the MoD

- (a) Can you confirm that all payments of damages under (3) that were not connected to UK civil court proceedings, were paid following internal adjudication by the MoD?*
- (b) Can you briefly describe the set of internal procedures the MoD has been using to arrive at these*

internal decisions to award damages under the Human Rights Act?

6. The total financial cost to the MoD of all damages paid under (3)

Please summarise the total cost to the MoD of all payments made under (3) during the above period, to

- (a) Iraqi nationals or their families*
- (b) Afghani nationals or their families.*

(B)

7. Number of payments made by the MoD during the above period following a Strasbourg Court ruling under the European Convention

How many payments if any, were made in compliance with a ruling of the European Court of Human Rights in respect of breaches of the European Convention by British forces overseas, to

- (a) Iraqis or their families*
- (b) Afghanis or their families?*

Please state the year of each such hearing.

(C)

8. Damages paid by the MoD during the above period under laws other than the Human Rights Act/ European Convention

Have damages been paid by the MoD to Iraqis or Afghanis in respect of faults committed by British forces overseas, under laws other than the Human Rights Act or European Convention?

- (a) If yes, please name the statute(s) or international treaties involved.*
- (b) If there has been a significant and substantial cost to the MoD under any particular one of these laws, please state which law and the total cost incurred during the above period.*

A search for the information has now been completed within the MOD and I can confirm that some of the information in scope of your request is held.

Questions (A)2 to (A)6 refer to claims made under the Human Rights Act 1998 (HRA) and I have applied Section 12(1) (Costs) of the FOIA to this part of your request. The Department does not record separately claims of breaches of HRA. In order to determine if breaches of that Act have been alleged, claims forms and supporting documentation will need to be manually retrieved and scrutinised. Since 2010 the Department has received over 1000 claims for judicial reviews (JR) and there are also in addition 1191 civil claims, many of which have been based on the Human Rights Act and relate to Iraq and Afghanistan. Taking an examination of 1000 JR claims alone at 5 minutes each results in the retrieval and scrutiny of 12 forms per an hour totalling 83 hours. At a cost under the FOIA of £25 per hour this equates to £2075 and exceeds the Departmental costs limit of £600. If you are able to narrow or redefine this part of your request to which section 12(1) has been applied, we will be happy to reconsider it.

In question B(7) you ask about the number of payments made to Iraq and Afghan nationals by the MOD following a ruling by the European Court of Human Rights (ECtHR) for breaches of the European Convention by British Armed Forces overseas. For the purposes of this reply I will assume that you are referring to breaches of the European Convention on Human Rights (ECHR). The ECtHR has considered five applications by Iraqi nationals or their representatives claiming a breach of their ECHR by the UK. Two

judgments were handed down in 2010, two in 2011 and one in 2014; the ECtHR found in favour of four applicants and 'just satisfaction' payments were made to them. To date the MOD has not defended any applications to the ECtHR lodged by Afghan nationals.

In question (C)8 you ask for details of damages paid between 2003 and 2015 under laws other than the HRA or ECHR. There are claims related to the United Nations Convention Against Torture as well as claimed breaches of the Geneva Convention and other customary international law and closely linked to the claims for breaches of HRA and ECHR. Section 12(1) has therefore also been applied to this question for the reason given above. Again, if you are able to narrow or redefine this part of your request to which section 12(1) has been applied, we will be happy to reconsider it.

Under Section 16 of FOIA (Duty to Provide Assistance) however you will be interested to know that previous FOIA requests similar in nature to yours have been made and the responses have been published. Please see <https://www.gov.uk/government/publications/foi-responses-published-by-mod-week-commencing-14-december-2015> While it is not possible to determine from the data whether or not breaches of the HRA or a particular ECHR article have been claimed, I hope that the information published in December 2015 will be of interest and possibly go some way in answering the question posed at (c)8. The claims cover a broad range of incidents including personal injury and damage to property and vehicles.

Since the publication of this information in December, one further claim by an Iraqi civilian has been settled. This brings the number of such claims settled to 324.

With regard to claims pursued by Afghan civilians, additional information to that previously published in December has been supplied by the office with responsibility for dealing with claims 'in country'. The information relating to claims brought in financial year 2015/16 has been extracted from the claims register supplied and a copy of this extract is attached. This extract has been redacted in accordance with Section 40 of the FOIA to remove details such as names and addresses, etc as this is considered to be personal data.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 2nd Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>

Yours sincerely,

A solid black rectangular box used to redact the signature of the sender.

