



HM Courts &
Tribunals Service

**War Pensions and Armed Forces Compensation
Appeals**

First-tier Tribunal

EXPLANATORY LEAFLET
Guide for users

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Introduction from the Chamber President

Tribunals provide an accessible, informal and low-cost way of resolving disputes, typically between government departments and citizens. Over a million cases every year are decided by independent and specialist Tribunals in a range of different areas such as social security, tax, mental health, immigration and many others. The First-tier Tribunal is divided into a number of different Chambers (or divisions), each with its own specialist area of expertise. The War Pensions and Armed Forces Compensation Chamber (WPAFCC) is the part of the First-tier Tribunal which decides disputes between Veterans and the Ministry of Defence over entitlement to awards under the statutory War Pensions and Armed Forces Compensation schemes. It only deals with such appeals and hears no other cases. The judges and members of the WPAFCC are completely independent of the Ministry of Defence and any other government department.

This guide is intended to help you by answering some frequently asked questions about what happens when you decide to appeal against the decision made by Veterans UK on your compensation claim. I do hope that you find it useful.

Fiona Monk
Chamber President
War Pensions and Armed Forces Compensation Chamber (WPAFCC)

What is the War Pensions and Armed Forces Compensation Chamber?

The War Pensions and Armed Forces Compensation Chamber (WPAFCC) is the First-tier Tribunal, that specialises in deciding appeals under the War Pensions or Armed Forces Compensation schemes.

The Tribunal is independent of any government department, including the Ministry of Defence and its Agency Veterans' UK which deals with claims made under both schemes. It also has no connection with any military unit or of any military charity and Tribunal panel members remain both independent and impartial at all times.

Although the Tribunal is an independent judicial body, like a Court, the procedure is simple and flexible, and the Tribunal's procedural rules are designed so that if you are appearing before the Tribunal on your own you are able to present your case by yourself without the need for a lawyer. However, there are several charitable organisations which offer Tribunal representation at no cost, and many Veterans find it very helpful to have the support and advice of an expert representative from one of these Service charities. There is an Annex at the end of this leaflet that gives further details.

The WPAFCC only hears appeals in England and Wales; and there are separate Tribunals in Scotland and Northern Ireland.

Can the War Pensions and Armed Forces Compensation Chamber hear my Appeal?

When you make a claim, Veterans UK (the agency of the Ministry of Defence which administers both schemes) has to decide two questions:

- Was your injury or condition caused or made worse by your service?
- If it was, then what is the level of the war pension or compensation due to you?

Veterans UK will write to you to tell you it's decision on your claim. If you are not satisfied, then you have an automatic right of appeal to the WPAFCC Tribunal.

The Tribunal will then decide whether your injury was caused or made worse by serving in the armed forces.

If it was, it can then make decisions about:

- your entitlement to a pension or compensation
- how much pension you get
- your entitlement to extra allowances, for example for mobility needs
- pension start dates
- withheld pension

The Tribunal deals with appeals for the two pension schemes currently running, which are:

- the War Pensions Scheme - for injuries caused or made worse by service before 6 April 2005
- the Armed Forces Compensation Scheme - for injuries caused by service from 6 April 2005 onwards

Are there any disputes the War Pensions and Armed Forces Compensation Chamber cannot hear?

There are a number of matters related to service on which the WPAFCC Tribunal may not rule. These types of cases are sometimes referred to as being excluded from the Tribunal's jurisdiction as it cannot hear claims unless the law has given it authority to do so.

Below are some examples:

- Whether you should be or should have been medically discharged.
- The level of your attributable benefits if you are discharged.
- Matters in relation to your fitness for promotion, or for certain duties.
- Matters in relation to your terms or conditions of Service.
- Your Service Pension

A Judge of the WPAFCC Tribunal may rule on this type of jurisdictional issue "on the papers", i.e. without holding a hearing. But in some cases, the Judge may order an oral hearing to be held to resolve the point.

Who sits on the WPAFCC Tribunal panel which decides the Appeal?

The WPAFCC Tribunal panel consists of three members: a Judge, a medical member and a Service member, who is appointed because of their knowledge and experience relating to the Armed Forces. This means veterans do not have to provide a lot of background evidence which would normally be taken for granted in a Service environment. Further, Tribunal members who do not have a Service background, have considerable experience from hearing other veterans' appeals.

The WPAFCC Tribunal is supported by an administrative team of staff from Her Majesty's Courts and Tribunal Service (HMCTS). Their main office is at Arnhem House, Leicester. Office staff can provide general information about your appeal but cannot provide legal or medical advice.

How do I appeal the decision?

Before you appeal to the Tribunal, you must write to Veterans UK at Norcross, Thornton, Cleveleys, Lancashire, FY5 3WP, or email veterans-uk@mod.uk and ask them to reconsider their decision. Explain why you think the decision is wrong and give any information or evidence not included in your original claim. If you have made separate claims for injuries and have received separate decisions, you have to identify which decision you are appealing, or if you are appealing against all of the decisions, make that clear. They will look at your case again and write to you with their decision.

If you're still unhappy contact Veterans UK and ask for an appeal form to take your case to the Tribunal. Fill it in and send it back to Veterans UK and not the Tribunal office in Leicester. Also,

please ensure you notify and provide details of your representative should you decide to be represented.

You need to be aware of the time limits. You have a year from when you are notified of the decision on your claim in which to make your appeal. In some cases, you will be allowed to appeal after one year, but you must explain why your appeal is late. You cannot appeal against any decision after two years.

What is “The Response”?

The Response is compiled by Veterans UK, and contains the information given in your claim and the relevant evidence used to make the decision under appeal, such as medical reports, and service records. In the Response you are referred to as “the Appellant” and Veterans UK as “the Respondent” or sometimes “the Secretary of State for Defence”. Veterans UK will send the Response to your appeal to the Tribunal administration, and to you and your representative (if you have one).

The first few pages of the Response will have an index. You should check that all the documents listed in the index are in the bundle. If there is any material which you believe is relevant to your appeal, but not included, (e.g. you may have been admitted to hospital for treatment in relation to your condition, and there is no record of your hospital stay in the Response), contact Veterans UK and ask for it to be provided.

If you want the Tribunal to consider additional information such as an up-to-date medical report from your consultant or GP, you should send it to the Tribunal and Veterans UK as soon as possible and no later than 4 weeks after the Tribunal office has acknowledged your appeal. It is important that you put together all the supporting evidence which you have as soon as you decide to appeal.

What happens when the appeal is received by the Tribunal?

Once the Tribunal receives a copy of the Response. The Tribunal will send a ‘listing questionnaire’ for you to complete, your answers will enable the Tribunal to make the best arrangements for your hearing. If you are currently in service, please advise the Tribunal of any deployments, exercises or courses which would make it difficult for you to attend your hearing.

Also, if you are living abroad or posted overseas and wish to join your appeal hearing remotely (via telephone or video link) the Tribunal will need to check that there is an agreement with the country you are in that enables us to hear evidence from you. This may take some time so please let us know immediately if this is the case and tell us which country you will be in.

At this stage you also need to notify the Tribunal if you intend to bring any witnesses, provide their details and their written statement. You should also inform the Tribunal office if you have a special requirement, such as an interpreter or require any adjustments to be made, to enable you to participate in the hearing. You can bring family members or friends for support. If you would like for them to speak on your behalf, please notify the Tribunal.

Due to the Covid-19 pandemic, face to face hearings are currently suspended and hearings are being heard remotely by video or telephone. If you choose to have a video hearing, it is vital you have access to the internet and a PC/ laptop or tablet. However, if you wish you can have your appeal heard in your absence, and you may provide a written statement for the Tribunal to consider setting out your reasons for appealing and what you are asking the Tribunal to do.

Alternatively, you can consent to a decision being made by the Tribunal without an actual hearing, based on the papers, and you may provide a written statement.

It is important that you keep the Tribunal office informed about dates when you are not available (e.g. if you are posted abroad, are on holiday or are having medical treatment) and any changes of contact details. Once you have been notified of your hearing date, any requests for postponement will be referred to a Judge or Tribunal Caseworker and will only be granted for compelling reasons and should be supported by evidence.

Within four months of your appeal being registered with The Tribunal, the Tribunal will aim to hear your appeal. Please note the Tribunal has been impacted due to the Covid-19 Pandemic, and there is likely to be some delays. Delays can also be because the Tribunal maybe awaiting information from you or Veterans UK, and because much older cases need to be listed before yours.

The Tribunal hearing

Although face to face hearings are currently suspended due to the Covid-19 pandemic, the Tribunal usually sits in major cities and towns across England and Wales, and the venue will be the location nearest to your address if you want to attend the hearing in person.

The proceedings are kept as informal as possible, if you are attending the hearing at a venue, you will find the room is not set out like a court room. The panel members will sit in a row, at a table on the same level as you. The Judge sits in the middle, with the Service member and medical member on either side. The Judge does not wear a wig or gown. It is not necessary for you to wear a suit, or dress formally. You and your representative (if you have one) will sit opposite the Tribunal panel, as will the Veterans UK's representative if in attendance. The Tribunal is assisted by a clerk who will show you where to sit and what to do. You are not required to stand when you address the Tribunal. The Judge and the panel members are addressed as "Sir" or "Madam" or "Doctor". The Judge will explain anything about the process which isn't clear, but the panel cannot advise you about your case.

Regardless of how your hearing is held (face to face, telephone or video), the panel will introduce themselves before the hearing begins and the usual sequence is for the representative from Veterans UK to briefly introduce the case, then each side puts forward its evidence and arguments based on the material in the papers. The panel members, who will have read the papers in advance, will ask questions about your case if they feel more information is required. This is done on an informal basis and there are no strict rules of evidence applied at the Tribunal hearing.

Tribunal hearings are open to the public, which means anyone can come to watch, or listen in, but it is rare for a WPAFCC Tribunal hearing to attract any public interest. You can, of course, bring family members or friends for support.

Also remember to have the Response and the documents you're using as evidence at the hearing to hand. You should have given copies of any evidence to the Tribunal and Veterans UK well in advance of the Tribunal hearing. Producing evidence late or on the day of the hearing may lead to your case being adjourned to another date and a delay in you getting a decision and can cause delays for other veterans who are also waiting to have their appeal heard.

The Tribunal's decision and reasons

In many cases the Tribunal will be able to give you its decision on the day, shortly after the hearing. If you attended the hearing in person you will be given a printed Decision Notice setting out the Tribunal's decision. Otherwise the Decision Notice will be emailed or posted out to you. However, at other times the Tribunal may need more time to consider its decision, in which case it will send you a written decision shortly afterwards. The written decision just sets out the outcome of your appeal that is whether you have been successful or not and any change to the decision which you had appealed

You can apply (within 42 days) for the Tribunal's reasons for the decision (we call this a written statement of reasons), which the Tribunal should provide within 28 days after they get your request, but this can sometimes take a little longer.

Appeals from the WPAFCC Tribunal

You can apply for permission to appeal against the Tribunal's Decision, but only if you think the Tribunal has made an error of law.

The following are examples of what is meant by "error of law".

- The Tribunal applied the law incorrectly
- The Tribunal conducted the proceedings in breach of the proper procedures, for example it did not tell you in time about the hearing
- The Tribunal failed to give adequate reasons for its decision or back up the decision with facts

You cannot appeal just because you disagree with the outcome and want to have your case reheard.

The first step in applying for permission to appeal is to write to the Tribunal requesting a written Statement of Reasons for the Tribunal's Decision (as explained above). The request must be in writing and must be received by the Tribunal within 42 days after the date on the Decision Notice.

If, having considered the Statement of Reasons, you believe that the decision of the Tribunal was based on an error of law, you may then apply for permission to appeal against the decision, giving reasons why you think the decision is wrong. The application must be within 42 days after the Tribunal issued the Statement of Reasons to you.

An application for permission to appeal will be considered by the Chamber President or a nominated Judge. The Judge may:

- First, consider whether to review the decision, and if there is an error of law, make a fresh decision or arrange for your case to be re-decided.
- Grant permission, in which case you can forward your appeal to the Upper Tribunal.
- Refuse permission, in which case you then have the option of applying directly to the Upper Tribunal for permission. Further information can be found on the website: <https://www.gov.uk/administrative-appeals-Tribunal>.

If the appeal proceeds to the Upper Tribunal, that Tribunal has power to set aside the First-tier Tribunal's decision and give a fresh decision or refer the case to the First-tier Tribunal for re-hearing.

Veterans UK can also appeal to the Upper Tribunal, and they have to go through the same steps as you would.

Costs and Expenses

You should be aware that even if your appeal has been allowed, the Tribunal cannot order costs against or in favour of either party (this is one way in which Tribunals differ from courts).

However, you might be able to claim expenses or compensation for:

- travel (only in the UK)
- living expenses for the time you're away from home
- loss of earnings

Contact the Tribunal office directly for further details (or ask the clerk at your Tribunal).

Annex

Relevant Legislation

The Tribunal will make decisions based on:

- The Pensions Appeal Tribunals Act 1943
- The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006
- The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011

The Tribunal must follow the rules and process set out in the:

- The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008
- The Tribunals, Courts and Enforcement Act 2007

Useful Contact Details

Veterans-UK
Norcross, Thornton, Cleveleys, Lancashire, FY5 3WP
veterans-uk@mod.uk
0808 191 4218

War Pensions Armed Forces Compensation
PO Box 11206
Loughborough
LE11 9PS
United Kingdom
0300 303 5857

Organisations prepared to provide free representation/advice

Service charities

The Royal British Legion

Haig House, 199 Borough High Street, London, SE1 1AA

Tel: 0808 802 8080

Email: info@britishlegion.org.uk

www.britishlegion.org.uk

BLESMA (formerly British Limbless ex Service Men's Association)

115 New London Road, Chelmsford, CM2 0QT

Tel: 020 8590 1124

Email: info@blesma.org

<https://blesma.org>

The National Gulf Veterans and Families Association (NGVFA)

Building D Office 8, Chamberlain Business Centre, Chamberlain Road, HULL, HU8 8HL

Tel: 0845 257 4853

Email: info@ngvfa.org.uk

www.ngvfa.org.uk

The Royal Air Force Association (RAFA)

Atlas House, 41 Wembley Road, Leicester, LE3 1UT

Tel: 0800 018 2361 Headquarters: 0116 266 5224

www.rafa.org.uk

The Royal Marines Charity

Building 32, HMS Excellent, Whale Island, Portsmouth, Hampshire,

PO2 8ER

Tel: 01392 346424

<https://rma-trmc.org>

Other organisations

National Pro Bono Centre (Law Works)

www.lawworks.org.uk

Law Centres

www.lawcentres.org.uk

Citizens Advice

www.citizensadvice.org.uk