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| Title: Armed Forces (Service Complaints and Financial Assistance) Bill Lead Department or agency: Ministry of Defence Other departmental agencies: None | Impact Assessment (IA) |
| | Date: 04/6/14 |
| | Stage: Final |
| | Source of intervention: Domestic |
| | Type of measure: Primary legislation |
| | Contact for enquiries: for each area) Helen Buckman, PersTrg-Sec-ComplaintsAHd@mod.uk 020 7218 2574 |

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| Summary: Intervention and Options | RPC Opinion: Not required |
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| Cost of Preferred (or more likely) Option | | | | |
|---|----------------------------|--|------------------------------|----------------------|
| Total Net Present Value | Business Net Present Value | Net cost to business per year (EANCB on 2008 prices) | In scope of One-In, One-Out? | Measure qualifies as |
| n/a | n/a | n/a | No | n/a |

What is the problem under consideration? Why is government intervention necessary?

The Service Complaints Commissioner (SCC) and the House of Commons Defence Committee have criticised the time it can take to conclude internal complaints from armed forces personnel, arguing that the system is not fair, effective or efficient. To amend the process to make the system fairer and to change the SCC role to become an ombudsman, requires changes to the Armed Forces Act 2006. In addition to the £105m provided to date, the government has committed a further £10m to help deliver the commitments of the Armed Forces Covenant across the UK. However, two pieces of legislation constrain the fund's use: Section 31 of the Local Government Act 2003 limits payments to English and Welsh Local Authorities only, and section 70 of the Charities Act 2006 limits financial assistance to charities and other benevolent institutions only where there is direct or indirect benefit to England. Payments outside of these pieces of legislation are currently made using the Appropriations Acts. We wish to put in place longer term provision for making these payments.

What are the policy objectives and the intended effects?

To shorten and sharpen the complaints process with the aim that complaints are concluded more quickly and to introduce new rights that provide for an independent ombudsman to decide to investigate if a complainant believes that his or her complaint has not been handled correctly. Together these changes should give members of the armed forces increased confidence that the process is fair, effective and efficient, and encourage them to raise matters of concerns. This will maintain confidence in the system which will ultimately, improve operational effectiveness and aid recruitment and retention of personnel. To allow the MoD to provide financial assistance for charitable or benevolent activities that are intended to benefit the Armed Forces community without geographical limitation.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Neither the complaints system nor the role of the Commissioner can be changed fundamentally without amending primary legislation. Existing rights cannot be replaced (for example with the new right of access to the ombudsman) without changes to the Armed Forces Act 2006. A policy workaround would not be an effective alternative to the proposed new provisions.

The government has made a long term commitment of funding to support the Armed Forces Covenant. Without the legislative change we will be significantly limited in our ability to support organisations in Scotland, Wales and Northern Ireland.

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| Will the policy be reviewed? Yes. If applicable, set review date: March 2016 | | | | | |
| Does implementation go beyond minimum EU requirements? | | | No | | |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base. | Micro No | < 20 no | Small no | Medium no | Large no |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | | | Traded: N/A | | Non-traded: N/A |

Evidence Base

Review

The Bill requires the Ombudsman to report annually on the fairness, effectiveness and efficiency of the complaints system and on the exercise of his or her functions during that period. The annual report is required to be laid in parliament by the Secretary of State for Defence. This will provide a regular basis for scrutiny of how the complaints system and the role of the ombudsman are functioning and whether improvements or adjustments are needed. .

There is no formal requirement to review the provisions for making payments under the Covenant arrangements.

The provisions in the Bill will be reviewed formally within 3-5 years of Royal Assent as part of the arrangements to conduct post-legislative scrutiny on all Public Bills.

Financial Impact

The Bill will give rise to additional expenditure in the following two areas in respect of Service complaints provisions:

Creation of the Ombudsman

There will be an increase in salary paid to the full time Ombudsman compared to the part time Service Complaints Commissioner (who works 3½ days a week), amounting to some £20-30k per year. The Ombudsman's office will also require additional staff with a different range of skills and expertise so as to conduct investigations. The total number of staff (additional to the Ombudsman) is likely to increase from 9 to about 20, though this will require more detailed consideration and ultimately will be related to the volume of applications submitted. The increase in staff is estimated to cost up to £500K a year. Staff are expected to be recruited from the civil service on civil service terms and conditions. In the longer term the introduction of a more effective and efficient complaints process should reduce the burden on the three Services under the existing system. This will free up resources but also reduce the pressure on scarce military manpower which can be used on more productive tasks.

The involvement of independent members

The Bill requires that an independent member is included in consideration of a complaint that involves bullying, harassment or other improper behaviour, and that in certain circumstances (to comply with EC law) the body that considers a complaint should consist of all or a majority of independent members. Independent members (for the first of these requirements) were introduced in to the process for the first time in the Armed Forces Act 2006 to bring visible independence to the system, along with the Commissioner role, for complaints about improper behaviour. Independent members are recruited externally for a three year term. When selected to deal with a complaint, an independent member receives the following payments: for a panel that sits for up to two days, a one off reading fee of £500 and £500 for each day that the panel meets; or, for a panel of three days or longer, a one off reading fee of £1K and £500 for each day that the panel meets. The provision in the Bill may increase the requirement for independent members – they come into the current process currently at the highest level of appeal but with its removal they may be called upon more frequently at the lower level. Given that we do not expect panels consisting entirely of independent members to be required often, and that there is inevitable uncertainty about the extent to which independent members are required

(dependent as it is on the numbers of complaints of improper behaviour), we expect to meet the requirement from the existing pool of members. The additional expenditure therefore arises from fee payments, which we expect to be in the order of £10-30K per annum.

All of this additional expenditure will be met from within MOD's existing resource allocation.

Since 2011, the MOD has been allocated £105M to support the Armed Forces Covenant through three grant schemes; £30M Community Covenant fund; £35M LIBOR fund; and £40M Veterans Accommodation fund. To date £55M has been distributed, with a further £10M of Community Covenant funding and £40M Veterans Accommodation funding set to be distributed this financial year. Going forward there is £10M per annum ring fenced in the Defence budget to support the Armed Forces Covenant. To date the costs of administering these funds has been met from within the Defence budget. No new funding is expected to be required in the future.

Equality Analysis

There is no impact on equality arising from either the service complaints or financial assistance clauses in this Bill. The service complaints clauses do, however, support achievement of the three aspects of the Public Sector Equality Duty to show due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

Improvements to the system are expected to increase the confidence personnel have in the system's ability to deal fairly, effectively and efficiently with their complaint, so that they are confident to raise matters of concern so that they can be aired, dealt with and where possible recurrence can be mitigated if not prevented. The policy material that follows from the legislation will as now be regularly analysed for its impact on equality, and the new ombudsman will continue to report annually on the fairness, effectiveness and efficiency of the system for all personnel.

Other Specific Impact Tests

There are no implications under any of the following headings:

- Economic impact – competition or small firms
- Environmental impact – greenhouse gas or wider environmental
- Social – health and well being; justice system; rural proofing
- Sustainable development

A separate European Court of Human Rights memorandum has been prepared.