

Annex A: Ministry of Defence Equality Analysis Impact Assessment template (Initial Assessment)

Name of the Policy or Service: Legal Protections for Armed Forces personnel and veterans - Restrictions on time limits for bringing actions in respect of personal injuries or death, and under the Human Rights Act, relating to overseas operations of the UK Armed Forces.	New Proposal or Change to Existing: New proposal
Person completing the assessment: DJEP & Defence Legal Protections Project Team	Initial/Full assessment and date: Initial - May 2019 to January 2021
Purpose of the policy or service The Overseas Operations (Service Personnel and Veterans) Bill, which was introduced on 18 March 2020, delivers the manifesto/election commitments to "introduce new legislation to tackle the vexatious claims that undermine our Armed Forces". Part 2 of the Bill contains the non-criminal measures: <ul style="list-style-type: none">• To help ensure that claims arising from overseas operations are brought promptly and dealt with more fairly, we are introducing absolute 6-year limitation longstops for personal injury/death claims, and claims brought under the Human Rights Act, in respect of overseas military operations, as well as additional factors for the courts to consider when exercising their discretion to extend the normal time limits for bringing such claims; and,• a requirement for the Secretary of State to consider, in the case of significant military operations, whether it is appropriate to derogate from certain rights in the ECHR in light of the situation at the time. <i>(Not covered in this assessment.)</i>	
Scope The limitation longstops apply to all claims made in connection with UK Armed Forces' <u>overseas operations</u> equally, whether brought by Service personnel or anyone else. The longstops will not apply to claims which do not arise from "overseas operations" as defined in Part 2 of the Bill, whether brought by UK Armed Forces personnel who are not deployed on an overseas operation at the time of the incident, or any other claimant.	
Responsibility and Ownership	

Deputy Director, Judicial Engagement Policy and Defence Legal Protections Project

Consultation and Involvement (including legal advice as appropriate)

- Other Government Departments, including No 10, Cabinet Office, MOJ, FCO - were involved in the development of aspects of the policy (including legal) between 2016-2020, and helped instructing the Office of Parliamentary Counsel on drafting of the legislation.
- Public Consultation on proposed Legal Protections measures - 22 July to 14 October 2019 (+4,200 responses). All MOD personnel (military and civilian) were encouraged to participate via an article on the Intranet; Service personnel were also encouraged to participate through their chain of command, and Veterans through contact networks.
- Legal advice was sought and considered in relation to compliance of the Bill's measures with domestic and international legal frameworks.

Summary of Evidence

FCO policy papers

Draft MOJ Impact Assessment on Changes to Limitation Law

[ECHR Memorandum](#)

[Response to the public consultation](#)

[Quarterly service personnel statistics 1 April 2020](#)

[UK Armed Forces biannual diversity statistics 1 April 2020](#)

[Armed Forces Continuous Attitudes Survey 2020](#)

Impact on Protected Groups and Mitigation: Evidence and Analysis								
Equality Group	Positive Impact			Negative Impact			No differential impact	Reason and evidence to support your assessment for each of the equality groups
H = High (substantial, relevant impact), M = Medium (some relevant impact), L = Low (unlikely to be relevant)	H	M	L	H	M	L		
Age		X				X		<p>Armed Forces Community.</p> <p>The Armed Forces Biannual Diversity Statistics April 2020 show on 1 April 2020 of the 145,320 members of the Armed Forces:</p> <p>Under 18: 2,690 (2%) 18-19: 6,620 (5%) 20-24: 26,990 (19%) 25-29: 30,280 (21%) 30-34: 27,440 (19%) 35-39: 22,700 (16%) 40-44: 14,580 (10%) 45-49: 8,070 (6%) 50-54: 4,860 (3%) 55-59: 1,030 (1%) 60 and over: 50 (1%)</p> <p>This indicates that the majority of members of the Armed Forces are in the age groups from 20 to 39.</p> <p>The Armed Forces continuous attitude survey (AFCAS) 2020 found that 98% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months, on the grounds of age.</p> <p>This analysis is split into types of groups within the Armed Forces Community that will be impacted by this. Firstly, the impact on Service personnel and veterans who want to make a claim against the MOD and secondly, the impact on Service personnel and veterans who are called to provide evidence on behalf of the MOD.</p>

							<p>For Service personnel who want to make a claim against the MOD, we assess there to be a <u>low negative impact</u>.</p> <p>For younger Service personnel (of “fighting age”), there is anecdotal evidence that personnel are reluctant to bring claims, for example in case it has an impact on their service careers (promotion etc.) - so younger personnel and veterans with their careers ahead of them may be resistant to bringing claims quickly, and may get "timed out" on date of incident claims. However, serving personnel or veterans who may have, for example, late onset conditions arising from their operational service (e.g. PTSD) will still be able to bring claims from six years of their "date of knowledge".</p> <p>For older Service personnel and veterans, and their families, the Bill is also assessed to have a <u>low negative impact</u> as they may be timed out of making a claim if the “date of knowledge” exceeds six years. However, historical data suggests that the majority of individuals make claims within the time limit (94%). To mitigate the risk of individuals being timed out from making a claim, the MOD will aim to communicate the new timelines across the Armed Forces Community to ensure there is full awareness of the measures.</p> <p>For Service personnel or veterans who may be called to give evidence on behalf of the MOD in relation to civil claims or HRA claims, there is an assessed medium positive impact. This is most likely going to affect older Service personnel or veterans who will benefit from the fact that once the relevant time has elapsed, they will not be called upon again to recall what will often be traumatic events. This is less likely to affect younger Service personnel as the longstop would not yet have elapsed.</p> <p>For those outside of the Armed Forces community who plan to bring claims against the MOD, there is no assessed discriminatory impact based on age, as everyone of any age might have a grievance that they would like to make against the MOD. The date of knowledge could have expired for any person older than six years of age.</p> <p>Local national population</p> <p>The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They</p>
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								are therefore more likely to be affected by this measure. As we do not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to all no matter where any future overseas operation may occur.
Disability						X		<p>Armed Forces Population While the MOD collects data on wounded, injured and sick, it does not currently collect data on military personnel with a disability.</p> <p>AFCAS 2020 found 99% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of disability.</p> <p>The policy may have a low indirect negative discriminatory impact on grounds of disability for individuals whose disability arises from injuries sustained as a result of overseas operations. Under this legislation, there will be an absolute limitation on claims for their injuries of 6 years from the date of incident. However, claims may still be brought 6 years from the "date of knowledge" for example for later onset conditions such as PTSD. Service personnel can also still bring claims under the AFCS 7 years after the incident (or date of knowledge), which means that they are not disadvantaged in respect of military colleagues whose injuries have arisen from non-operational incidents.</p> <p>Local national population. There may be a larger proportion of potential claimants from the local national community who are disabled as a result of an incident, which is why they may bring a claim. The policy may therefore have a low indirect negative discriminatory impact on local nationals whose disability arises from injuries sustained as a result of British operations.</p>
Race							X	<p>Armed Forces Population The Armed Forces Biannual Diversity Statistics April 2020 show on 1 April 2020 of the 145,320 members of the Armed Forces: BAME: 12,750 (8.8%)</p>

								<p>White: 131,420 (91.2%)</p> <p>AFCAS 2020 found 97% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of race, colour, nationality, ethnic or national origin.</p> <p>Local national population The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They are therefore more likely to be affected by this measure. As we do not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to individuals of any race or ethnicity, no matter where any future overseas operation may occur.</p> <p>The proposal is not directly or indirectly discriminatory based on race.</p>
Religion or belief							X	<p>Armed Forces Population The Armed Forces Biannual Diversity Statistics April 2020 show on 1 April 2020 of the 145,320 members of the Armed Forces: Christian: 94,210 (65%) No religion: 46,000 (32%) Hindu: 1,400 (1%) Other religions: 2,580 (2%)</p> <p>AFCAS 2020 found 99% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of religion or belief.</p> <p>Local national population This policy would apply to anybody within the local national population regardless of their religion or belief. We have no way of knowing where the UK Armed Forces will deploy overseas in future and it is therefore not possible to assess the impact on individuals of a particular religion or belief.</p>

								The proposal is not directly or indirectly discriminatory based on religion or belief.
Sex (Gender)							X	<p>Armed Forces Population The Armed Forces Biannual Diversity Statistics April 2020 show on 1 April 2020 of the 145,320 members of the Armed Forces: Male: 129,420 (89%) Female: 15,900 (11%)</p> <p>AFCAS 2020 found 98% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of gender.</p> <p>The limitation longstops are likely to impact more claims from male Service personnel than female, because the former currently make up the vast majority of deployed operational forces, and are therefore more likely than females to find themselves being injured (or killed). However, the limitation longstops would apply equally to claims from female personnel if they were to suffer injuries on overseas operations.</p> <p>Local national population The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They are therefore more likely to be affected by this measure. As we do not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to all no matter where any future overseas operation may occur.</p> <p>The proposal is not directly or indirectly discriminatory based on sex (gender).</p>
Sexual orientation							X	<p>Armed Forces Community. MOD does not hold figures on sexual orientation in the Armed Forces, only that if it is declared or undeclared.</p>

								<p>AFCAS 2020 found 100% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of sexual orientation.</p> <p>Local national population The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They are therefore more likely to be affected by this measure. As we do not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to all no matter where any future overseas operation may occur.</p> <p>The proposal is not directly or indirectly discriminatory based on sexual orientation.</p>
Pregnancy and Maternity							X	<p>Armed Forces Community. Biannual Diversity Statistics October 2019: 5.4% of female members of the Armed Forces took maternity leave in 2018.</p> <p>AFCAS 2020 found 99% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of pregnancy or maternity.</p> <p>The limitation longstops will have no differential impact on individuals bringing a claim when they are pregnant or on maternity leave. Pregnant personnel or those on maternity leave do not serve on overseas operations, so there is no differential impact in those circumstances.</p> <p>Local national population The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They are therefore more likely to be affected by this measure. As we do</p>

								<p>not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to all no matter where any future overseas operation may occur.</p> <p>The proposal is not directly or indirectly discriminatory based on pregnancy or maternity.</p>
Gender reassignment							X	<p>Armed Forces Community. MOD does not hold figures on gender re-assignment of Armed Forces personnel.</p> <p>AFCAS 2020 found 100% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of gender reassignment.</p> <p>Local national population The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They are therefore more likely to be affected by this measure. As we do not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to all no matter where any future overseas operation may occur.</p> <p>The proposal is not directly or indirectly discriminatory based on gender re-assignment.</p>
Marriage and civil partnership (for elimination discrimination only)							X	<p>Armed Forces Community. AFCAS 2020 found 99% of respondents did not believe that they had been subject to discrimination in a Service environment in the last 12 months on the grounds of marriage / civil partnership.</p> <p>Local national population The analysis from the financial impact assessment suggests that the bulk of civil claims from overseas operations are likely to arise from local populations, rather than from the UK Armed Forces. They</p>

								are therefore more likely to be affected by this measure. As we do not know what involvement MOD may have in future conflicts, it is not possible to assess the impact on protected groups within these categories, but the measures would apply equally to all no matter where any future overseas operation may occur.
								The proposal is not directly or indirectly discriminatory based on marriage and civil partnership.
Other identified groups (social mobility / PT workers / carers etc)							X	N/A

Record Decisions

X	a) No change to the proposed policy or service required Rationale and evidence: The policy has an assessed low negative impact on age and disability (but these assessments are qualified in the statements above), and there is no differential impact on any of the other equality groups.
	b) Adjust the proposed policy or service Rationale and evidence:
	c) Continue with proposed policy or service despite potential negative impacts on equality and/or failure to advance equality Rationale and evidence:
	d) Stop and remove the policy or service unless an alternative approach is found Rationale and evidence:

Implementation and Monitoring

Describe how you are going to monitor the policy or service going forward, including monitoring any adverse or negative impacts identified in this equality analysis. Outline any action plans or next steps underway or proposed to address any challenges or priorities identified.

When the Bill becomes law, data will be kept in relation to claims brought against the MOD, and whether they are impacted by the limitation longstops.

Sign-off (decision-maker)

I am satisfied that due regard has been given to the three equality goals as described in Section 149 of the Equality Act 2010

Signed:

Name/Rank/Post/Date:

Contact details: If you require further information about this report please contact: **Defence Legal Protections Project Team**