

Title: Armed Forces Covenant – Duty to have due regard to the Covenant. IA No: RPC Reference No: N/A Lead department or agency: Ministry of Defence Other departments or agencies: N/A	Impact Assessment (IA)			
	Date: 26/02/2021			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: MOD				

Summary: Intervention and Options	RPC Opinion: Not Applicable
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Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
Not Quantified	N/Q	N/Q	Non qualifying position

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

The Armed Forces (AF) Community can experience disadvantage in their access to publicly provided services as a result of their connection to Service in the Armed Forces, as compared to civilian counterparts. The voluntary Armed Forces Covenant has delivered significant improvements for the armed forces community, but levels of delivery are inconsistent around the UK and the Government is concerned that some members of the Armed Forces Community are still suffering comparative disadvantage in accessing public services. In many areas where disadvantage remains a key issue, a lack of awareness of how the unique features of Service life can impact on the Armed Forces Community appears to be a significant factor.

- What are the policy objectives of the action or intervention and the intended effects?**
- To increase awareness of the unique obligations facing the AF Community and understanding of how these can affect their requirements of and ability to access key public services.
 - To embed this understanding in public sector decision-making for the policy, commissioning, and delivery of public services in relation to the AF community.
 - To encourage greater consideration for the AF Community in terms of service provision, where this is appropriate and possible.
 - To increase awareness of other relevant guidance and best practice.

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

Option 1: do nothing and rely on the existing and future initiatives under the Armed Forces Covenant to incrementally improve the situation for the Armed Forces Community. This does not achieve the Government's commitment to strengthening the Covenant across the UK.

Preferred Option: imposing a legal obligation on public bodies exercising functions in areas which have the greatest impact on day to day life for serving personnel, veterans and their families (housing, education and healthcare) to consider the principles of the Covenant when exercising their functions in these areas.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: By end 2026				
Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	Micro 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

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

_____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/Q
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low					
High					
Best Estimate	Not Quantified		N/Q	N/Q	
Description and scale of key monetised costs by 'main affected groups' Limited monetisable costs for this legislation, although some were considered and costed as negligible. Ombudsman: The case load for Local Government & Social Care Ombudsman for Covenant issues is very low. Assume that the additional case load will be very low and encompassed within existing workload. Assume the same for Parliamentary & Health Service and Housing Ombudsmen. Judicial System: The Justice Impact Test highlighted a maximum of 0-1 cases per year. Therefore, the costs to the judicial system is minimal, and classed as zero cost.					
Other key non-monetised costs by 'main affected groups' Main impact on public service providers, namely Local Authorities (LAs) and healthcare providers. LAs and Healthcare providers: Recording of decisions and additional training are likely to have some financial impact, this should be minimal given that majority of public bodies in scope are already voluntarily supporting the Covenant principles. Costs could be higher for Northern Ireland public bodies; we are unable to quantify this. Private organisations delivering public services: The duty is imposed on public bodies exercising public functions. Where such functions are contracted out to third parties, the legal obligation to comply with the duty remains with the public body.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low					
High					
Best Estimate	N/Q		N/Q	N/Q	
Description and scale of key monetised benefits by 'main affected groups' It has not been possible to identify and monetise the majority of the benefits associated with this Bill.					
Other key non-monetised benefits by 'main affected groups' AF: The main benefit of the measures in the legislation is to raise awareness of the disadvantages that can face members of the armed forces community when accessing public services, as compared to their civilian counterparts, and to ensure that consideration of the needs of the Community is embedded in policy and decision making across the UK, in the relevant policy areas. Public bodies in scope: There are likely to be some efficiency savings where guidance is issued, as this will assist the bodies subject to the duty to identify relevant factors to be taken into account when considering their obligations under the legislation.					
Key assumptions/sensitivities/risks				Discount rate (%)	

There is an assumption that as majority of public bodies in scope are already voluntarily supporting the Armed Forces Covenant the new burden on them will be limited. However, whilst some are delivering best practice on Covenant issues already and will see a limited extra burden, others may not have reached this level and therefore will see a greater cost associated with this legislation. There is going to be a post-implementation review of costs to LAs in line with New Burdens Assessment to assess whether this assumption is correct. As Northern Ireland public bodies are not voluntarily signed up to the Covenant, it is likely costs will be higher and there is more uncertainty around the additional burden. There is a risk that the number of complaints, driven by better awareness within the AF community, will result in greater burden on the relevant Ombudsmen and the Judicial system; this cannot be easily analysed or foreseen.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	
			N/A

Evidence Base

A. Background/ Problem under consideration

1. The Armed Forces Community (comprising of Serving and former members of the Armed Forces and their families) can experience disadvantage in their access to publicly provided services as a result of their connection to Service in the Armed Forces (“Covenant disadvantage”).
2. While good procedures and initiatives have been put in place by many service providers, levels of delivery are inconsistent around the UK and the Government is concerned that some members of the Armed Forces Community are still suffering disadvantage in accessing public services. Where cases of Covenant disadvantage have occurred, in many cases a lack of awareness of how Service life can impact on the Armed Forces Community appears to be a significant cause. The Government therefore intends to pass legislation to raise awareness in key policy areas, to ensure that local service providers have the information they require to honour the Covenant while retaining the flexibility to best meet the needs of their local population

B. Options considered

3. There was a clear requirement to strengthen the Covenant by further incorporating it into law, as a way to raise awareness in key policy areas to ensure that local service providers have the information they require to honour the Covenant whilst retaining the flexibility to best meet the needs of their local population. Therefore, this ruled out the ‘do nothing’ approach, which would have continued to rely on the wholly voluntary nature of the Covenant.
4. HMG proposes introducing a new obligation on certain public bodies exercising specified public functions in the areas of housing, education and healthcare to have due regard to the principles of the Armed Forces Covenant, as set out in the legislation:
 - the unique obligations of, and sacrifices made by, the Armed Forces;
 - the principle that it is desirable to remove disadvantages arising for service people from membership, or former membership, of the Armed Forces; and
 - the principle that special provision for Service People may be justified by the effect on such people of membership, or former membership, of the Armed Forces.
5. The aim of the legislation is:
 - to increase awareness of the unique obligations facing the Armed Forces Community, and the unique nature of service;
 - to increase understanding of how these can affect the way in which the Armed Forces Community accesses public services, and how their requirements differ from those of their local civilian counterparts;
 - to embed this understanding in public sector decision-making for the development of policy, commissioning and delivery of public services in relation to the Armed Forces community.
 - to encourage greater consideration of the specific needs of the Armed Forces Community in terms of service provision, where this is appropriate and possible;

- to increase awareness of other relevant and useful guidance.
6. The obligation will, initially, apply to three strands of public policy that comprise the foundation of successful lives (and which are commonly raised areas for concern by members of the Armed Forces Community). The specific way in which Covenant obligations are implemented is different in each of the four devolved jurisdictions, which have different statutory regimes relating to the three areas under consideration. We have assumed that the impact on England will be similar to the impact in Wales and Scotland. Northern Ireland are likely to face higher costs and additional burdens given no public bodies are voluntarily supporting the Covenant. However, there is uncertainty over the levels of this additional burden. In England, functions included in the scope of the Duty are:
- **Education:** Admissions and Home-to-School Transport, Special Educational Needs and Disabilities (SEND) Support, Student Wellbeing, including policies such as the Service Pupil Premium. Note: this covers service children of 5-18 years of age (extending to 25 years for those persons with a valid Education, Health and Care (EHC) plan).
 - **Healthcare:** All healthcare functions, as provided for in the NHS Act 2006 and the Children and Families Act 2014.
 - **Housing:** Social Housing Allocations policy, Homelessness Policy, Tenancy Strategies, Disabled Facilities Grants.
7. This requires the following public bodies (in England) to be subject to the Duty:
- **Education:** Local authorities; Governing bodies of maintained schools; The proprietor of an academy; Governing body of an institution in the statutory further education sector, as defined in section 91(3) of the Further and Higher Education Act 1992; A non-maintained special school; and a special post-16 institution.
 - **Healthcare:** NHS Commissioning Board (s1H National Health Service Act 2006); Clinical Commissioning Groups (s1I NHS Act 2006); NHS trusts (s25 NHS Act); NHS Foundation Trusts (s30 NHS Act 2006); Local authorities exercising functions under s2B of the NHS Act 2006;
 - **Housing:** Local authorities.

These are key areas where serving and former members of Armed Forces and their families may face disadvantage as a result of Service life.

C. Rationale and evidence

8. Legislative change is required to raise awareness of how Service life can impact on the Armed Forces Community. As the Armed Forces Covenant is already a voluntary commitment, to which most of the bodies affected are signed up, the base for costs is not considered zero. Therefore, the cost impacts are a lot smaller than had the Armed Forces Covenant not already existed. We acknowledge this is not the case for Northern Ireland, public bodies in Northern Ireland may face additional costs.
9. A wide variety of stakeholders were engaged in the development of this policy and considerable effort was put in to collect data on costs and benefits. It is expected that this policy will deliver improvements to the lived experience of the Armed Forces Community, as consideration of their needs becomes embedded in policy and decision making over time. However, it has been difficult to assess precise costs and benefits for what is likely to be primarily a behavioural shift.

10. A survey of LAs was conducted which helped inform the New Burdens Assessment: this collected data on implementation and ongoing costs. Whilst this contained gaps, it was clear that the range in costs LAs thought they would incur was large. This could be used to qualitatively register costs but was not enough to provide robust evidence and assumptions to quantify the cost. In addition, meetings with the Ombudsmen, MOJ and the LGA have been positive, with their views taken into account within the costs.

D. Risks, assumptions and limitations

11. There is limited available data to determine clear assumptions around costs and benefits.

12. Data returns from LAs and conversations with the LGA made it clear that the impact of this legislation is likely to vary, whilst some LAs consider the impact to be very limited others consider the burden to be greater. The analysis is based on returns from LAs combined with knowledge from the Covenant Policy team.

13. The Impact Assessment assumes a limited increase in complaints volume. This was driven from conversations with Ombudsmen and the Justice Impact Test. However, until the legislation is implemented it is unclear how this volume might change.

E. Costs and benefits

14. It has not been possible to monetise the measures in the Bill, but a description of the costs and benefits for each measure is provided below.

15. The main groups that will be affected by the measures in the Bill are:

- Service personnel, veterans, and their families;
- Local Authorities, (Northern Ireland costs will not fall on local authorities because model for delivery differs);
- Healthcare organisations;
- Ombudsmen, (Local Government & Social Care, Parliamentary & Health Service, Housing); and
- Her Majesty's Courts and Tribunals Service (HMCTS) and the judiciary.

16. The main costs of this legislation will fall on the public service providers, requiring changes to policy making and decision making processes, and also through an increase in the use of their complaint processes. Whilst the additional costs incurred through the complaints process are considered zero, there are likely to be minimal cost implications on public service providers.

17. The Local Government & Social Care Ombudsman and Judicial system are expecting a negligible increase in caseloads. With the Justice Impact Test highlighting a maximum of 0-1 cases per year. This is therefore included as a zero cost, however, there is a risk of unforeseen complaints.

18. The service providers who are likely to see the greatest impact are the LAs and Healthcare providers. Whilst data collection to inform the New Burdens Assessment highlighted that some LAs believed they would incur costs as a result of implementation this was not

consistent across the board. There will be training made available through the Covenant Policy team, however this will not be mandated. The New Burdens Assessment considers the impact on LAs in detail and concludes negligible additional burden.

19. Private bodies are out of scope for this legislation. Those delivering public services will be expected to adhere to legislation although it is the public bodies who would be liable for any failure to comply. Any impact of financial burden felt by private bodies is likely to be included in contract costs and therefore they will not experience any financial impact.
20. While we have had less engagement with healthcare providers compared to LAs we anticipate similar costs. There are likely to be some financial implications in terms of optional training and changes in recording processes, however some public health bodies have signed up to the Covenant on a voluntary basis. Therefore, much of the sector will be familiar with the Covenant and Armed Forces issues.
21. The main benefits will be to encourage greater consideration for the Armed Forces Community and understanding of how disadvantages arising from service, or former service can affect their requirements of and ability to access key public services. This is a benefit which cannot be quantified but will have a large impact on their quality of life.
22. There will also be efficiency benefits for some LAs. The legislation provides for the publication of guidance, to which they must have regard, which will assist bodies subject to the duty to understand the relevant unique features of service life which may give rise to disadvantage, which members of the community may be particularly affected and the factors to consider when designing policy or making decisions in these areas. This is not quantifiable.
23. The guidance will be subject to wide consultation before publication, giving bodies subject to the duty the opportunity to have their views taken into account.

F. Impact on small and micro businesses

24. The private sector is out of scope and therefore there will be no impact on small or micro businesses.

G. Monitoring and Evaluation

25. MOD will monitor bodies, subject to this duty, ability to comply with the Duty and whether the Department is providing sufficient support to LAs as part of a New Burdens post-implementation review and lessons learnt exercise to be undertaken one year from when the legislation takes effect. MOD will monitor equalities impact resulting from the duty as part of equalities impact assessment post implementation review to be undertaken as required.
26. MOD will prepare a preliminary assessment of how the legislation has worked in practice by end 2026.