



New burden assessment pro forma

Q1	Name of Lead Department.
A1	Ministry of Defence (MoD)
Q2	Working level contact details in lead department.
A2	Name: Team: Armed Forces Covenant Team Telephone: E-mail:
Q3	Name of policy/duty/expectation.
A3	Armed Forces Covenant Duty - Duty to Have Due Regard
Q4	Description of the policy objective.
A4	<p>Situation - 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.</p> <p>Problem – Anecdotal evidence witnessed through decades of collective experience by the public and charity sectors has determined that bodies charged with determining and delivering public services have lacked awareness of (1) the unique sacrifices and obligations that the Armed Forces Community must endure to serve and protect their country and (2) how such unique sacrifices and obligations affect this Community’s ability to access public services and influence their requirements of those public services.</p> <p>The Armed Forces Covenant is a promise by the nation ensuring that those who serve or who have served in the Armed Forces, and their families, are treated fairly, and will not be disadvantaged in accessing public services due to military service. Existing legislation requires the Secretary of State for Defence to lay an annual report before Parliament to cover the effects of membership, or former membership, of the Armed Forces on service people in the fields of healthcare, education, housing and in the operation of inquests. The Covenant in its current form was launched in 2011 and every local authority (LC) in Great Britain has</p>

made pledges in its support, with many initiatives having been delivered at the local level to the benefit of the local Armed Forces Community.

While good procedures and initiatives have been put in place by service providers, levels of delivery are inconsistent across 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.

Solution – The proposed legislation will impose a new duty, “the Covenant Duty”, on specified public authorities, when exercising certain aspects of their public functions, to have due regard to:

- the unique obligations of, and sacrifices made by, the Armed Forces;
- the principle that it is desirable to remove disadvantages arising for service people¹ 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.

The focus of the legislation will be on local/regional delivery to cover the following areas of public policy and delivery:

- Housing: broadly, policy relating to the allocation of social housing, homelessness policy, and certain powers to make disabled facilities grants;
- Education: in relation to children of compulsory school age and persons with a valid Education and Health Care Plan (EHCP) or devolved equivalent, this will broadly cover admissions and school transport, wellbeing and Special Educational Needs and Disabilities (SEND) support;
- Healthcare: all relevant aspects of care included by the NHS Act 2006 and devolved equivalent legislation.

The areas of housing, education and healthcare, in terms of Service People, must be considered by the Secretary of State for Defence in his statutory annual report to Parliament, and we have chosen to reflect these in the new Covenant Duty as these are key areas where serving and former members of the Armed Forces and their families may face disadvantage as a result of Service life. The affected

¹ Defined as members of the regular and reserve forces; former members of any of Her Majesty's forces who are ordinarily resident in the UK; and relevant family members.

	<p>public authorities will be supported by statutory guidance published after consultation with Covenant delivery partners across government, devolved administrations, the Armed Forces Community, and the Service charity and welfare sectors. There will also be a specific requirement to consult with Ministers in a relevant devolved administration, where the guidance affects devolved bodies.</p> <p>The proposals will also give the Secretary of State for Defence delegated powers, with appropriate checks and balances, to add other public bodies and other public functions in different areas. Where the exercise of such powers will affect devolved areas, there will be a requirement on the Secretary of State to consult with the Ministers in the relevant devolved administration(s). In addition, there will be a general requirement that such powers should only be exercised following consultation with appropriate stakeholders. Any regulations made in exercise of the powers will be subject to the affirmative procedure.</p> <p>The new Covenant Duty will not create any private law rights. Non-compliance with the Covenant Duty will be subject to judicial review, if the issue cannot be resolved through internal complaints processes or, where relevant, an appropriate Ombudsman.</p>
Q5	Stage proposal is at (e.g. initial draft, consultation document, Cabinet clearance, etc.). If first draft, please state when update will be submitted.
A5	<p>The new Covenant Duty will apply, broadly, in the same policy areas across United Kingdom. While we expect impacts to be proportionate around the country, as it applies to devolved areas of healthcare, housing and education, devolution means that the Covenant Duty may apply to more public bodies and/or functions in some nations more than others.</p> <p>The Bill containing these provisions has been introduced and is currently at Committee stage in the first House (House of Commons).</p>
Q6	Brief expected timeline of the forthcoming key stages, including committee clearance.
A6	<p>The proposed legislation to impose this new duty to have due regard to the three principles of the Covenant is part of the Armed Forces Bill. Final timings have yet to be confirmed but the Armed Forces Bill must reach Royal Assent by the end of 2021. However, current plans are for the law in this area to take effect at least six months from Royal Assent to give public bodies sufficient time to prepare for the new Armed Forces Covenant Duty.</p>
Q7	What the proposal requires local authorities (LCs) to do, and how this differs from what they are doing now. If there is no difference, why is the new power/duty/ expectation being made?

A7

What local authorities (LCs) do currently:

All LCs across Great Britain have signed pledges in support of the Armed Forces Covenant and its principles. This means that staff may be aware of the Covenant and understand how best to deliver its services in line with its principles and in accordance with local priorities, cognisant of the issues that face the Armed Forces Community. LCs may also already have processes and relationships in place to gather relevant information on which to consider impacts of decisions.

Many LCs go further, initiating and supporting welfare and goodwill projects in support of the Armed Forces Community, some of which may offer benefits that go beyond removing disadvantage.

Generally, as part of policy best practice, many LCs have processes in place by which to consider the impacts of their decisions before action is taken. LCs will already be subject to similar due regard duties, most notably PREVENT and the Public Sector Equality Duty (PSED), and so will have useful models already in place. LCs will therefore have the experience and processes in place to understand, and comply with, the obligation to have due regard.

What the proposal requires LCs to do:

The proposal will impose a duty on LCs, when they are exercising certain functions in certain sectors of public service provision, to have due regard to the principles of the Armed Forces Covenant. This “Covenant Duty” operates alongside all other duties/functions, and does not take priority over any other duty. LCs will need to consider their own circumstances and come to their own views on how to comply with all the duties to which they are subject, including this one.

In addition to that legal obligation, the voluntary Covenant remains a commitment, and LCs will still be signed up to that. So, we would expect them to continue with the good work they have been doing in this regard.

However, as a result of our policy, as represented within the provisions in the Armed Forces Bill, LCs will now be under a legal duty in relation to the Covenant in these areas, which they were not before. Therefore, it will be in an LC’s interest that it **be able to demonstrate, if challenged, that it has considered the principles of the Armed Forces Covenant as part of their decision-making process when exercising certain functions affecting the Armed Forces Community.** This is because the creation of a legal duty opens LCs to the risk of judicial review (JR) if it appears that they have not had due regard to the principles of the Armed Forces Covenant before making a relevant decision or developing or reviewing a policy. The proposed legislation does not mandate outcomes, only that consideration has taken place, in order to ensure that awareness is improved while retaining the ability of local service providers to honour the Covenant in the way that best suits local needs.

Generally, if challenged, a body subject to the Covenant Duty may be able to show that it has complied with it in the following ways – this is a non-exhaustive list. None of these steps are mandated and this list is simply indicative of some of the measures that could be taken, for the purposes of this new burdens assessment. It is for the particular body to consider what is proportionate in the circumstances: there may be some cases where none of the following steps are necessary:

- Compile information on the needs (and prevalence where this adds value) of the Armed Forces Community more widely, as well as the specific person(s) affected by its decision;
- Engage and consult with relevant stakeholders as appropriate, which could include: the Armed Forces Community, the MOD, local partnership, relevant service end-users, sector experts and Service charities;
- Record and set out, clearly, the positive and negative impacts of its policy, drawing on its consultation where appropriate; and
- Acknowledge the negative impacts of its decision(s) on the Armed Forces Community and identify means to mitigate this negative impact where possible.

‘Having due regard’ is governed by the principles of proportionality and relevance – if it would be disproportionate to devote much time to considering an issue, then it would not be expected for LCs to do so.

How this differs from current LC activity:

As part of standard, evidence-based decision-making, LCs will already research the impact of their policies and actions on various groups, including, to a certain extent, the Armed Forces Community.

However, due to devolution and the resulting variation in prioritisation of local issues, there will be a degree of variance in performance against the Covenant. LCs will have differing levels of Covenant governance and Covenant initiatives currently in place, meaning that for those who already deliver their services in line with the Covenant will likely need to do no additional work to comply with the new duty, as opposed to those who currently do less.

Finally, the Armed Forces Community varies in its presence across the UK and concentrates itself in certain areas. As such, some LCs will be required to have more frequent consideration than others due to more frequent contact. However, until we understand more about the location of the Armed Forces Community (especially Veterans, whose distribution across Great Britain will only become apparent after the 2021 Census² (2022 in Scotland), we can only treat LCs the same in this regard.

It is recognised that LCs may require some support as these proposals are introduced and the Government will work with key stakeholders to provide this in

² Due to ongoing security considerations there is no intent at present to seek information on the localised distribution of Veterans in Northern Ireland.

	<p>the form of statutory guidance, advice, e-learning, and an online repository for tools, resources, information and contacts to help LCs understand the concerns of the Armed Forces Community and the principles of the Armed Forces Covenant. Statutory guidance will also be supported by a communications campaign to clarify the nature and scope of the Covenant Duty to the public (including the Armed Forces Community) and to those subject to it.</p> <p>While LCs will have to spend time consulting the statutory guidance that the government will produce, it is assessed that the guidance, combined with the other tools and resources, will make the overall process of consideration more efficient. Furthermore, increased consideration will likely lead to improved efficiency and effectiveness in public services, whilst the effect of standardisation of Armed Forces policy research will improve parity of services across council and regional borders.</p>
Q8	Expected date the policy impacts on local authorities. If implementation is to be phased in, please give estimated dates for each phase.
A8	<p>The Bill was introduced to Parliament in January 2021. Final timings have yet to be confirmed but the Armed Forces Bill must reach Royal Assent by the end of 2021. However, current plans are for the law relating to the Armed Forces Covenant Duty to take effect at least six months after Royal Assent to give public bodies enough time to prepare for their requirements under that new duty. All dates are subject to change and these will be communicated to LCs.</p>
Q9	Is an impact assessment being completed? If the policy impacts on the private sector in the same way with no disproportionate impact on local authorities, contact the MHCLG New Burdens Team to confirm that the new burdens rules do not apply in this case - this does not mean there are no local government finance matters that might need to be addressed.
A9	<p>The policy will impact indirectly on private organisations, but only those who deliver public services on behalf of the public body/authority responsible for the affected statutory function(s). Given that any challenge to an alleged failure to comply with the Covenant Duty (via Judicial Review) will only be taken against the public authority that is responsible for/manages the private organisation's contract, it will be in the public body's interest to ensure that the Covenant Duty is reflected in commissioned services and, therefore, that additional requirements on private bodies are present in future contracts. It is expected that this may increase contract cost quotes as a result, however, costs cannot be estimated at this time.</p> <p>We have discussed the impact of the legislation more widely through discussions with LCs via regional focus groups and representative organisations, such as the Local Government Authority (LGA) and its equivalents in Wales and Scotland. We have also discussed the legislative proposals with individual LCs where these discussions were requested.</p>

	<p>This impact assessment considers cost estimates and arguments provided by LCs. Considering the Covid-19 pandemic, we received inputs from only 10% (39/397) of LCs across Great Britain, however, based on population estimates, these councils represent around 19m people in the UK. LCs proposed the costs of meeting the proposed Covenant Duty requirements over a three-year period (referred to as 'Ongoing Costs'). We also collected costs of ensuring that LCs become duty-compliant in the first place (referred to as 'Transition Costs') over the same three-year period. In addition, we have based costs on available benchmarks where this was required and feasible.</p> <p>However, as previously stated, adjusted for the significant levels of additional, mitigating support we will provide to LCs, it is our view that the proposed Covenant Duty will not constitute an additional <u>financial</u> burden on LCs.</p>												
<p>Q10</p>	<p>Has the proposal been appraised in accordance with HM Treasury <i>Green Book</i> principles? What was the outcome of the appraisal?</p>												
<p>A10</p>	<p>In line with HM Treasury's Green Book, options were considered and legislating the Covenant was the best option to meet the requirement. Other options included specific legal obligations on public bodies to tackle specific disadvantage, creation of a Veterans Commissioner, and imposing a duty to report on LCs.</p> <p>It was deemed that this legislation would tackle the problem at source by ensuring LCs distribute public resource in a way cognisant of the needs of the Armed Forces Community, among other groups. This would be done by mandating sufficient consideration of the needs of the Armed Forces Community, while allowing LCs the continued flexibility to take the decisions that they feel best meet the needs of their local communities. This option delivers the Government's policy aims, whilst having minimal impact on public funds.</p>												
<p>Q11</p>	<p>Best estimate of reasonable costs and savings involved for local authorities for each individual year. Please give breakdown <u>by financial year</u> and state whether costs are revenue or capital.</p>												
<p>Q11a</p>	<p>Overall <u>additional</u> total costs to local authorities for each year.</p>												
<p>A11a</p>	<p>Please note, the following costs are exclusively capital. As previously stated, with MOD mitigations in place, we assess there to be zero impact on and zero savings for LC revenues.</p> <table border="1" data-bbox="341 1758 1474 1982"> <thead> <tr> <th></th> <th>Year 1 (2021-22)</th> <th>Year 2 (2022-23)</th> <th>Year 3 (2023-24)</th> </tr> </thead> <tbody> <tr> <td><i>Collection and Consideration of Information</i></td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> <tr> <td><i>Other Costs (Transition)</i></td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> </tbody> </table>		Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)	<i>Collection and Consideration of Information</i>	£0	£0	£0	<i>Other Costs (Transition)</i>	£0	£0	£0
	Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)										
<i>Collection and Consideration of Information</i>	£0	£0	£0										
<i>Other Costs (Transition)</i>	£0	£0	£0										

	Pay: Posts / Worker Hours	£0	£0	£0
	Pay: Pension(s)	£0	£0	£0
	Pay: Overtime	£0	£0	£0
	Judicial Review(s)	£0	£0	£0
	Training	£0	£0	£0
	Other Costs (Ongoing)	£0	£0	£0
	Non-Monetised Costs	N/A	N/A	N/A
	TOTAL (New Burden)	£0	£0	£0
	Estimated Savings	£0	£0	£0
Q11ai	Element attributable to 'one off' implementation costs.			
A11ai		Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)
	Collection and Consideration of Information	£0	£0	£0
	Other Costs (Transition)	£0	£0	£0
	TOTAL	£0	£0	£0
	<p>Collection and Consideration of Information: For costs:</p> <ul style="list-style-type: none"> • LCs have requested funding for additional worker hours to complete assessments, including the collection and analysis of existing data and to conduct new/updated research in the form of needs assessments. The rationale is the need to collect extensive evidence, from a range of sources, to demonstrate thorough consideration and comply with the Covenant Duty. This may mean LCs do more research than they may do currently, resulting in increased worker hours and, therefore, pay. • Suggested cost (average): £8,908 per LC (Year 1) • Suggested cost (range): £0-50,000 per LC (Year 1) <p>Against costs:</p> <ul style="list-style-type: none"> • LCs will already have internal processes in place to enable relevant, evidence-based decision-making with regards to policy and/or delivery because of their adherence to existing due regard duties (e.g. PSED) and their familiarity with the Armed Forces Covenant. Research is part of policy and case management best practice and LCs will already have experience and processes to ensure they conduct research that takes a general and statutory review of policy, not least to comply with existing due regard duties. • The difference with having due regard is ensuring that part of policy research is focussed on the principles being advocated, statutory criteria, 			

and more generally. Information collection and research does not need to be substantial – compliance is assessed on the substance of arguments made, rather than volume. The principles of proportionality and relevance apply - cases on individual persons will require a small degree of consideration of relevant factors, whilst policy decisions may require increased research.

- The Government will create and issue detailed statutory guidance to assist those bodies subject to the new duty, against the draft of which LCs and associated umbrella organisations are being invited to contribute and comment. This aims to dispel confusion and expedite the time taken to complete the due regard process.
- It is recognised that LCs may require some support as these proposals are introduced and the Government will work with key stakeholders to provide this in the form of statutory guidance, advice, e-learning, and an online repository for tools, resources, information and contacts to help LCs understand the concerns of the Armed Forces Community.
- The Government will continue work with LCs to inform them of current issues facing the Armed Forces Community.
- The latest Censuses will provide LCs across Great Britain access to new and updated data, including new data on their local Veteran population(s) (except in Northern Ireland), allowing more data to be readily available.
- Finally, the Ministry of Defence will continue to promote the Covenant internally amongst the Armed Forces Community, encouraging them to make themselves known to their LC when moving to a new area.
- It is therefore considered that the relevant information required, noting the principle of proportionality and relevance in Due Regard measures, will be accessible by LCs at no additional costs.

Other Costs (Transition):

For costs:

- LCs have requested funding for travel costs to conduct training and awareness events for staff, to engage with stakeholders, and to ensure due regard takes place and is effective, particularly in the early years of the duty's existence.
- LCs have requested funding for publicity to improve staff and public (particularly Armed Forces Community) awareness of the new duty.
- LCs have requested funding to pay for worker hours to make changes to internal policy and guidance documentation to ensure consideration takes place.
- LCs have requested funding to make changes to case management systems to flag casework ensuring consideration takes place and to attach Covenant Duty information to casework.
- LCs have requested funding to conduct a review(s) into commissioned services to ensure private bodies consider the new duty as part of contracts.
- Suggested cost (average): £4,954 per LC (Year 1)
- Suggested cost (range): £0-23,800 per LC (Year 1)

Against costs:

- Due regard duties mandate that employees carry out assessments where relevant. Whilst engagement with relevant stakeholders is a means to demonstrate due regard, training, whilst useful, is not. The Government will facilitate engagement and optional training virtually to avoid the need for travel – noting that this will have been better-enabled considering the current Covid-19 pandemic.
- Publicity, whilst a useful means to increase wider awareness, is not a means to demonstrate due regard and is not a legal requirement on LCs. The Government believes that publicity costs will be insignificant. LCs can utilise virtual means to communicate the significance of the new duty to its staff, whilst the MOD will bear the cost of publicising the duty amongst the Armed Forces Community itself (alongside Service Charities and the Families Federations).
- Amending processes to consider the new duty is a useful means to ensure consideration takes place, but not a legal requirement. The Government notes that LCs will have policy documentation that considers current due regard duties. These will serve as blueprints to expedite future minor amendments at negligible cost. Furthermore, it is good governance for LCs to review internal policy regularly, meaning a special review will not be required. Finally, the Government will work with LCs to create new guidance by issuing statutory guidance and advice centrally.
- Whilst it is recommended that decisions be recorded to make compliance with due regard easier, legislation does not mandate this. As such, it does not mandate the use of costly system changes and, furthermore, inexpensive means exist to achieve this. Whilst it is useful for organisations to flag when due regard must take place, the decision to have due regard lies with the policy officer or caseworker in charge of the decision.
- LCs will need to consider whether it is necessary to review any commissioned services, but this would be required in the case of any change in the legal framework applicable to the LC. Costs of contracts may increase as a result of private bodies needing to comply with the duty on behalf of the LC. However, at present, it is not possible to quantify this cost.
- Costs attributed to other transition costs are zero.

Q11aii. Recurring costs element (for the first 3 years).

A11aii

	Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)
Judicial Review(s)	£0	£0	£0
Training	£0	£0	£0
Other Costs (Ongoing)	£0	£0	£0
Non-Monetised Costs	N/A	N/A	N/A
TOTAL	£0	£0	£0

Judicial Review (JR):

For costs:

- LCs have requested funding for managing the costs of increased judicial review cases (JR). They indicate that the new duty comes with the increased risk of a JR case being lodged. Cases cost anywhere between £5K-£25K, with one cost quoted at £100K, the former likely representing costs of cases which are settled or withdrawn at an early stage in the process, and the latter cost for those JRs that do proceed to a hearing. Total costs per year are dependent on the number of JR cases, which could be higher in the early years as LCs handle their new requirements.
- Suggested cost (average): £8,071 per LC (Year 1)
- Suggested cost (range): £0-300,000 per LC (Year 1)

Against costs:

- We assess that LCs will not require funding for costs related to JR cases.
- The Justice Impact Test has stated a negligible impact will result and assumes a very small caseload.
- Any increase in risk of JRs can be mitigated by robust compliance with the requirement of the new legislation and engagement with complainants at the earliest stage in the internal complaints process.
- Other LCs have indicated that any possible JR costs for public bodies could be mitigated by their compliance with the Public Sector Equality Duty, which may also be subject to JR.

Training:

For costs:

- LCs have requested funding to conduct training to better enable its staff to become aware of Covenant issues more generally to improve decision-making.
- LCs have indicated that training would be required for all staff, including existing Covenant officers and Councillors with staff numbers ranging from 300-1500 per LC. Cost claims include funding for a trainer funded by the LC, time and travel costs, and costs associated with developing and managing their own training packages.
- Training would include LC staff dealing directly with the public (such as wellbeing officers in schools and nurses), staff in LC contact centres, and those making decisions on policy, strategy, commissioning and delivery that affect the Armed Forces Community.
- Training costs would be higher in year 1 as organisations begin to build awareness of Covenant issues. Year 2 and 3 will see reduced costs as organisations will only be required to train new employees and those refreshing their education.
- Based on input from LCs, the Government assesses that, on average, around 1440 staff per LC could undertake training. Assuming an average pay of £30K per employee with 48 weeks' work at 37.5 hours per week, to complete a 2-hour training session every 3 years would cost the average LC c.£48K (also every 3 years). Therefore, noting the 397 LCs across Great Britain, this would cost over £19m every 3 years.

- Ongoing training costs consist of staff turnover as new employees arrive at LCs and require training. Based on consultation with LCs, we assess that average turnover of relevant staff per year is 112, costing an additional c.£1.4m every 3 years covering the 397 LCs.
- Suggested cost (average): £1,885 per LC (Year 1)
- Suggested cost (range): £0-6,000 per LC (Year 1)

Against costs:

- The Government recommends that relevant LC staff undertake training as a useful means to improve their ability to comply with Covenant Duty requirements and increase wider knowledge of the Armed Forces Community.
- However, legislation mandates that due regard be had. It will therefore be important that LC staff understand the requirements of the duty and, therefore, have an awareness of issues facing the Armed Forces Community, but legislation does not mandate this be achieved by any specific means.
- It is recognised that LCs may require some support as these proposals are introduced and the Government will work with key stakeholders to provide this in the form of statutory guidance, advice, e-learning, and an online repository for tools, resources, information and contacts to help LCs understand the concerns of the Armed Forces Community
- Therefore, costs for LCs attributed to training are zero.

Other Costs (Ongoing)

For costs:

- Additional requests included: funding for communications campaigns, both internal (staff bulletins, team briefings, intranet pages) and to local Armed Forces Communities, administrative cost increases following expected increases in the number of complaints LCs will receive, engagement costs (attending Armed Forces forums), and the need to maintain systems.
- Suggested cost (average): £3,670 per LC (Year 1)
- Suggested cost (range): £0-16,000 per LC (Year 1)

Against costs:

- The MoD and central Government, using existing communications networks, will promote guidance and links to further information to provide support to public bodies affected by the proposed Covenant Duty. This will involve working with stakeholders to produce on-line tools, such as presentations, flyers and training modules that can be used by LCs to help them better cascade information about the new Duty internally and to their local community. The new Duty does not mandate communications campaigns. The MOD will continue to engage with serving personnel and families directly through the chain of command and with veterans and families through existing communication and third sector networks.
- There may be an increase in complaints made by the public and organisations (such as the third sector) resulting from their increased awareness of their right to complaint and, in some cases, to test

	<p>effectiveness of the new duty. This will be temporary, returning to normal levels after 1-2 years. Some LCs have indicated complaints can be handled by existing resource. This is also an indirect effect of legislation rather than a direct, mandated cost. Those LCs who already deliver their services in line with Covenant principles are less likely to suffer from increased complaints.</p> <ul style="list-style-type: none"> • As per transitional cost arguments, due regard duties mandate that employees have consideration to the Covenant principles where relevant. Whilst engagement with relevant stakeholders is a means to demonstrate due regard, training, whilst useful, is not. The Government will facilitate engagement and optional training virtually to avoid the need for travel – noting that this will have been better-enabled considering the current Covid-19 pandemic. • As per transitional cost arguments, whilst it is recommended that decisions be recorded to demonstrate compliance, legislation itself does not mandate use of costly system changes to achieve this and inexpensive means exist. Whilst it is useful for organisations to flag when due regard must take place, the decision to have due regard lies with the policy officer or caseworker in charge of the decision. • Therefore, costs attributed to other ongoing costs are zero. <p>Non-Monetised Costs:</p> <ul style="list-style-type: none"> • No non-monetised costs of note were provided by LCs. 												
Q11b	<p>Estimated specific and identified <u>savings</u> for each year - these must be additional to the annual savings authorities are expected to make and their treatment consistent with the appropriate HM Treasury guidance on efficiency.</p>												
A11b	<table border="1" data-bbox="341 1305 1476 1458"> <thead> <tr> <th></th> <th><i>Year 1 (2021-22)</i></th> <th><i>Year 2 (2022-23)</i></th> <th><i>Year 3 (2023-24)</i></th> </tr> </thead> <tbody> <tr> <td><i>Estimated Savings</i></td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> <tr> <td>TOTAL</td> <td>TBC</td> <td>TBC</td> <td>TBC</td> </tr> </tbody> </table> <p>Estimated Savings: For savings:</p> <ul style="list-style-type: none"> • Savings may be experienced as a result of the improved awareness results in better outcomes for the Armed Forces Community and the wider community. • Increased awareness will make services more efficient through improved service signposting and enhanced knowledge and information management. • Enhanced awareness will improve decision-making, ensuring public funds go where they are most needed delivering improved returns on investment. • Suggested cost (average): Unknown • Suggested cost (range): Unknown <p>Against savings:</p>		<i>Year 1 (2021-22)</i>	<i>Year 2 (2022-23)</i>	<i>Year 3 (2023-24)</i>	<i>Estimated Savings</i>	£0	£0	£0	TOTAL	TBC	TBC	TBC
	<i>Year 1 (2021-22)</i>	<i>Year 2 (2022-23)</i>	<i>Year 3 (2023-24)</i>										
<i>Estimated Savings</i>	£0	£0	£0										
TOTAL	TBC	TBC	TBC										

	<ul style="list-style-type: none"> • Savings are qualitative assumptions at present and are difficult to quantify. • Therefore, savings are assessed as zero. 																				
Q11c	What are the direct and indirect impacts on local authorities pay and pensions costs?																				
A11c	<table border="1"> <thead> <tr> <th></th> <th>Year 1 (2021-22)</th> <th>Year 2 (2022-23)</th> <th>Year 3 (2023-24)</th> </tr> </thead> <tbody> <tr> <td>Pay: Posts / Worker Hours</td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> <tr> <td>Pay: Pension(s)</td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> <tr> <td>Pay: Overtime</td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> <tr> <td>TOTAL</td> <td>£0</td> <td>£0</td> <td>£0</td> </tr> </tbody> </table> <p>Pay (including all three categories above): For costs:</p> <ul style="list-style-type: none"> • LCs made requests for funding to create a post(s) that can assist with completion of due regard assessments. This ‘Covenant Officer’ could decrease the time taken for assessments to be completed and decrease the risk of failed assessments and JR. The post could also drive cultural change on the Covenant Duty within LCs, collect evidence to create an organisation knowledge base, as well as assist in wider Covenant work. • LCs offered varied views on having dedicated, internal resource to manage the Covenant across their organisations. These included: <ul style="list-style-type: none"> ○ Paying for new or additional LC officers to deal with the requirements of legislation, e.g. promote/assist with consideration, either on a part-time or full-time basis; or ○ Paying for the work hours that existing LC officers use to deal with the requirements of the legislation; or ○ Delivering the duty within existing LC resource constraints • Suggested cost (average): £26,788 per LC (Year 1) • Suggested cost (range): £0-107,500 per LC (Year 1) <p>Against costs:</p> <ul style="list-style-type: none"> • The proposed duty adds scrutiny on several decision-making processes in local government. However, despite being a voluntary commitment, local authorities, as signatories of the Covenant and as part of policy best practice, should already consider their decision’s impact on the Armed Forces Community. Furthermore, legislation does not mandate a specific means to achieve compliance, including dedicating internal resource. • Therefore, costs attributed to pay is zero. 		Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)	Pay: Posts / Worker Hours	£0	£0	£0	Pay: Pension(s)	£0	£0	£0	Pay: Overtime	£0	£0	£0	TOTAL	£0	£0	£0
	Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)																		
Pay: Posts / Worker Hours	£0	£0	£0																		
Pay: Pension(s)	£0	£0	£0																		
Pay: Overtime	£0	£0	£0																		
TOTAL	£0	£0	£0																		
Q11d	Overall estimate of the <u>Net</u> Additional Cost (costs-savings) to local authorities for each year.																				
A11d	<table border="1"> <thead> <tr> <th></th> <th>Year 1 (2021-22)</th> <th>Year 2 (2022-23)</th> <th>Year 3 (2023-24)</th> </tr> </thead> <tbody> <tr> <td>Total (New Burden)</td> <td>£0m</td> <td>£0m</td> <td>£0m</td> </tr> </tbody> </table>		Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)	Total (New Burden)	£0m	£0m	£0m												
	Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)																		
Total (New Burden)	£0m	£0m	£0m																		

	<p>Benchmarking:</p> <p>The Government and the Ministry of Defence acknowledge the cost requests submitted by LCs and has reviewed the previous support it has provided to LCs when similar legislation was introduced (such as the PSED and PREVENT).</p> <p>However, we consider that direct financial support to LCs is not required as:</p> <ul style="list-style-type: none"> • The policy does not warrant further expenditure, notably as a result of: <ul style="list-style-type: none"> ○ the principles of having due regard (particularly proportionality and relevance); ○ legislation does not mandate a specific means of achieving compliance, allowing local governments flexibility to find ways to comply that are both cost-effective and convenient; ○ local authorities being signatories to the Covenant, which, whilst a voluntary commitment, means that consideration should already be taking place on decisions affecting the Armed Forces Community. • LCs are already required to meet other similar due regard duties, making adoption of this due regard duty a familiar process; • LCs are experienced in Covenant issues generally, meaning that complying with a Covenant Duty will be a familiar process; • The Government will work with stakeholders, including LCs, to provide LCs a substantial package of support to transition to, and comply with, the new duty, including: <ul style="list-style-type: none"> ○ Provision of statutory guidance, advice, and communications resources to support LCs to fully understand the requirements of the new due regard duty; and ○ Enhanced wider engagement, for example between LCs and local Armed Forces units, increased information sharing and the provision of <u>optional</u> training to ensure effective due regard is had. <p>Whilst the Armed Forces Covenant Duty may result in savings, for example, due to improved decision-making, at present, the Government will not pursue this further for the reasons as stated under Q11b.</p> <p>Therefore, net additional cost to the department, in terms of direct financial support to LCs and for the purposes of the New Burdens Assessment, is zero.</p>
<p>Q12</p>	<p>What discussions have taken place with local authority associations, e.g. with the LGA or LC? If there is no planned contact with local authorities through representative bodies, please explain why.</p>
<p>A12</p>	<p>Contact with key LC stakeholders was initiated through the Local Government Associations of England (LGA), Scotland (COSLA) and Wales (WLGA) and the MOD's Military-Civil Integration (MCI) teams within the Regional Points of</p>

	<p>Command (RPOCs). Due to Covid-19 and the diversion of key stakeholders to respond to the crisis, engagement was very challenging, and it was not possible to engage as widely as we would otherwise have wished.</p> <p>This contact allowed the establishment of informal, regional groups, led by local facilitators from within the wider Covenant network. These facilitators helped to present the proposals for legislation in their region and co-ordinated data returns to contribute to this Assessment. MOD took part in group calls held by the regional groups, and held individual call with LCs who requested them, to provide briefings and conduct Q&A sessions on the duty’s potential impact. The list of LCs contacted to participate in focus groups and those that provided costings is available upon request.</p> <p>We also held our annual conference on the Covenant, at which a presentation and Q&A on the proposed legislation was held. 115 officers from multiple borough, district, and local councils attended.</p> <p>Noting the decision to conduct a separate new burdens assessment for Northern Ireland, contributions to cost assumptions were received from LCs from across England, Scotland and Wales only. We have completed policy research within England, and have determined that, due to their role in healthcare, housing and education, the legislation would apply to all 343 LCs in England for functions of which they are responsible. It is confirmed that the 54 LCs across Scotland and Wales will be affected, but due to devolution, it is yet to be confirmed by the Devolved Administrations to what extent and we are working with them to confirm this.</p> <p>Therefore, cost representations in this assessment reflect expected costs to the 397 LCs across Great Britain only.</p>
Q13	<p>Brief description of authorities’ views, particularly on costs and financing (there is no obligation to agree final finance assessments with them).</p>
A13	<p>In addition to the arguments already covered in the sections above, generally, LCs:</p> <ul style="list-style-type: none"> • Support the desire for legislation and the motives/aims behind it. • Understand the scope and appreciate burden is limited to areas of public service where the Armed Forces Community commonly experience disadvantage. • Find it challenging to provide accurate costings to the New Burdens Assessment as at the time, while the scope of legislation determined the functions included, it did not specify the statutory duties and public bodies involved. • Find it difficult to quantify costs for the New Burdens Assessment in general. • Agree the PSED provides an indication of costs of adhering to the Covenant Duty.

- Recognises that LCs who already aim to deliver their services in line with the Covenant will have fewer issues demonstrating they have had due regard.
- Key stakeholders were diverted to focus on critical coronavirus response. Therefore, LCs were unable to provide enough capacity to input fully into our assessment. As such, many inputs to the New Burdens Assessment were not officially signed off by the LC Chief Executive and only represented the views of the officers completing them.
- Agree that clear guidance would be desirable and would appreciate any additional training or resources and engagement from MOD to both help comply with the duty and make effective decisions, including greater information sharing on issues such as service personnel movements.

The LGA reviewed arguments put forward by the Government in this assessment. The LGA states the following:

- “Feedback to MOD is in line with feedback it has received from LCs who have been involved in consultation to date.
- Some LCs will have to modify, if not add to, existing processes, particularly for the purpose of staff awareness, to carry out the new duty. The LGA believes this represents a New Burdens impact on councils regardless of the current level of local Covenant activity.
- Whilst all LCs are signatories to the voluntary Covenant, for several reasons not least the limited availability of dedicated funding to support local Covenant implementation at a time of funding pressures, some LCs have developed more Covenant activities than others. For the latter LCs in particular, this will present a new burden, regardless of current expectations. The LGA is also concerned about the cost impacts for councils across the board because dedicated funding to support local Covenant implementation, whilst welcome, is limited in extent and timeframe and does not take into account additional requirements from this duty at a time of significant funding pressures.
- Whilst the LGA understand the reasons for the level of engagement that has been achieved over a difficult period, it assesses that communication has been had primarily with LCs who are proactive on the Covenant, meaning that there is a risk that diverse views on the impact of the duty have not been heard.
- Individual LCs approaches to implementing the Covenant will differ, and a new duty will currently mandate that a certain level of consideration take place. Due to the risk of JR, LCs will also feel the need to increase efforts to provide as comprehensive an assessment as possible regardless of whether MOD advises that the duty only standardises existing effort. Finally, in order to defend any Judicial Review, LCs will have to record decisions, which they are not mandated to do at present.
- The provision of useful guidance and supporting tools, developed in partnership with LCs, will be essential to ensuring the successful implementation of the proposed duty.”

Q14	If there are net additional costs, has the lead department identified where the funding for this new burden is coming from and agreed to fully fund them? Please give details.
A14	Finance & Covenant Team - there are no additional costs, but this does not preclude costs being suggested as the proposed duty comes under scrutiny by Parliament and the Devolved Administrations. Therefore, despite no additional costs being forecast at this stage, we have raised this as a funding risk for the department.
Q15	What costing evidence/analysis do you have/are you going to undertake to demonstrate that the funding is sufficient, and when will you be providing this?
A15	Finance & Covenant Team - we have engaged with local authorities over the last 10 months to discuss net additional costs and the evidence we have received to date indicates that there will be no requirement to claim additional costs from central government (in this case MOD). However, we will commit to a review of our support to LAs around 12 months after the date the law comes into effect.
Q16	If costs are to be met by charging, do these cover the full net additional costs, and do authorities have the freedom to determine the fee levels consistent with recovering reasonable costs?
A16	Costs will not be met by charging.
Q17	If your assessment is that the proposal will result in no additional costs being placed on local authorities, how will you ensure that this is the case?
A17	As set out at A14, the MOD is confident that there will be no additional costs, but recognises that successful transition to the new duty is dependent on support (in the form of advice/guidance). Therefore, MOD will monitor LCs' ability to comply with the duty and whether the Department is providing enough support to LCs as part of a New Burdens post-implementation review to take place 12 months following the date the law takes effect.
MHCLG New Burdens Team Sign Off	
Q18	Have you shared your assessment with the New Burdens Team?
A18	Yes – MHCLG New Burdens Team approves this assessment.
Departmental Finance Director Sign Off	

Q19	Please state if this is a first or a final assessment of your proposal. If first, please indicate when a final assessment will be submitted.
A19	Final assessment.
<p>Certification that the estimated net additional costs falling on local authorities has been assessed in accordance with the guidance on new burdens and that this will be fully funded. That to the best of finance director's knowledge the estimates are a true and fair assessment of the net additional costs falling on authorities. Confirmation that their department is aware that if the proposed policy or initiative is implemented, there may be an independent post-implementation scrutiny carried out (paid for from within their department's existing resources) and that under or over-payments of grant revealed by the scrutiny may inform future decisions on funding.</p> <p>Signed: James Freemantle, Deputy Director of Defence Resources.</p> <p>Name: James Freemantle, Deputy Director of Defence Resources.</p> <p>Date: 20/01/2021</p> <p>Telephone number:</p> <p>Address: MB MOD, Whitehall</p>	

Please send the form to the relevant Housing, Communities and Local Government contact.

For completion by the MHCLG New Burdens Team:

Date received: Reference number: