

CABINET

16 November 2021

ARMED FORCES COVENANT LEGISLATION

Report of the Portfolio Holder for Policy, Strategy, Partnerships, Economy and Infrastructure

Strategic Aim:	Protecting the vulnerable	
Key Decision: No	Forward Plan Reference: FP/060821	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr O Hemsley, Leader and Portfolio Holder for Policy, Strategy, Partnerships, Economy and Infrastructure	
Contact Officer(s):	Karen Kibblewhite, Head of Commissioning	01572 758127 kkibblewhite@rutland.gov.uk
Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Cabinet:

1. Notes the implications of the forthcoming amendment to the Armed Forces Bill for Rutland
2. Endorses the approach used to manage implementation of the new legislative requirements

1 PURPOSE OF THE REPORT

- 1.1 This report outlines the progress of the Armed Forces Covenant legislation as part of the updated Armed Forces Bill, and the plans to ensure appropriate implementation in Rutland. The report refers to 'new legislation' throughout for ease, though it is recognised that this clause is an addition to the existing Armed Forces Bill.

2 BACKGROUND

- 2.1 The Armed Forces Covenant is a promise ensuring that those who serve or who have served in the Armed Forces and their families are treated fairly, will not be disadvantaged in accessing public services due to their military service, and where

appropriate there is special consideration, especially for those who have given most such as the injured and the bereaved. The intention is that by bringing the Covenant duties into legislation, a greater consistency in the national of delivery of the Covenant will be created.

2.2 The Armed Forces Community is defined as:

- Members of the Regular and Reserve Forces;
- Members of British Overseas Territory Forces who are subject to Service Law;
- Former members of any of Her Majesty's forces who are ordinarily resident in the UK
- Relevant family members; and
- Bereaved immediate family of Service Personnel and veterans who have died.

3 THE RUTLAND ARMED FORCES COMMUNITY

3.1 Rutland has a significant Armed Forces population. It is estimated that one fifth of the Rutland population is part of the Armed Forces community, be it serving, dependent, reservist, or veteran.

3.2 Rutland has two army barracks: Kendrew in Cottesmore and St Georges in North Luffenham. There are approximately 1,500 serving personnel across both. Additionally, there are serving personnel and their families from other military bases resident in Rutland.

3.3 Veteran numbers are estimated to be in the region of 5,000, although actual figures are difficult to identify. It is important to remember that veterans can be any age, although as reflects the wider Rutland demographics the majority of veterans in Rutland are older people.

4 THE LEGISLATION

4.1 The Council will be required under the duty to give 'due regard' and 'special consideration' to the Armed Forces community when developing policy, procedures and making decisions in the specified policy areas of:

4.1.1 **Education** including: general functions of Local Authorities; admissions and school places; and identification of and education provision for children with Special Educational Needs and Disabilities (SEND).

4.1.2 **Housing** including: allocation of social housing; homelessness applications; adaptations and Disabled Facilities Grants; tenancy strategies; and improvements of living conditions.

4.1.3 **Health** including: service improvement and effectiveness; patient choice; reducing health inequalities; and identification of and health provision for children with Special Educational Needs and Disabilities (SEND).

4.2 It is should be noted that where relevant functions have been contracted out, the

public body responsible for managing the contract, will need to ensure that policies and processes of the contractor comply with the Covenant Duty.

- 4.3 The legislation does not mandate specific outcomes, but will operate in a similar way to the Equalities duty public bodies have, in that the Council must be able to demonstrate how it has considered any potential implications of decisions on the Armed Forces Community. This includes individual service user, operational, and strategic decisions.
- 4.4 The legislation will be enforced through existing internal complaints procedures, relevant ombudsmen or, as last resort, judicial review.
- 4.5 The Ministry of Defence Armed Forces Covenant Team (AFCT) in conjunction with the Local Government Association has produced draft guidance for local authorities on implementing the new legislation and indicated that further guidance will be available later in November. The LGA is also holding regular meetings with stakeholders to update on progress, and Rutland is represented at these by our Armed Forces Officer.
- 4.6 There is also scope within the Act to further extend the policy areas included under delegated powers to the Secretary of State; Adult Social Care is one such area that has been mooted both during the LGA and AFCT stakeholder meetings and during the Bill's parliamentary readings.

5 IMPLICATIONS FOR THE COUNCIL

- 5.1 The key issue for the Council is ensuring clear demonstration that that the legislative requirements of paying 'due regard' and 'special consideration' are met.
- 5.2 The Council is already well-placed in terms of Covenant delivery – it has been signed up to the Covenant for a number of years and there is a dedicated 0.6fte Armed Forces Officer who works across the Council and with local stakeholders to support Rutland's Armed Forces communities.
- 5.3 The Covenant duties are well embedded into day to day business for most service areas, and it is envisaged that the majority of requirements are already in place in for the three areas currently covered by the Covenant. The Council will need to take steps to ensure that sufficient evidence and data is collected to be able to demonstrate this.
- 5.4 The MOD have stated that the legislation will be enforced once passed, although it is expected that there will be a grace period of six months between implementation and enforcement.
- 5.5 The MOD have also stated that a review into the support offered by local authorities to the Armed Forces community under the legislation will be conducted twelve months following the implementation, it is therefore expected that there will be a requirement to provide data for at least the first year.
- 5.6 The legislation is likely to be very high profile both nationally and locally. The events in Afghanistan have already led to increased focus and publicity on support for the Armed Forces community, and this is expected to continue. Additionally, it is expected that the legislation will have a high profile locally due to the significant

Armed Forces population in Rutland and the level of Armed Forces activity within Rutland's wider communities. It is important therefore that expectations across the community of what this legislation will mean in practice and what the Council will do in response are managed appropriately.

6 TIMESCALES FOR THE LEGISLATION

- 6.1 The Bill is currently at the Committee stage in the House of Lords, the third sitting of which will be held on 8th November. The second draft guidance on implementation will be provided after the Committee stage.
- 6.2 The expectation currently is that Royal Assent will be sought before Christmas and that the legislation will be enacted from January 2022. It is expected that final guidance on implementation will be provided in January, with training resources following in early 2022.
- 6.3 All timescales are subject to change.

7 IMPLEMENTATION

- 7.1 Implementation of the new legislation is being managed using the Corporate Project Governance process to ensure rigorous oversight. The existing Armed Forces Project Board comprising the Director for Adults and Health (chair), Cllr Razzell (Armed Forces Champion), the Head of Commissioning and the Armed Forces Officer, will be extended to become the Project Board for the implementation.
- 7.2 As the Armed Forces Officer is a shared post with Harborough District Council, the strategic lead for Harborough – the Director for Law and Governance - will also attend. Other officers from both Rutland and Harborough will be invited to attend for specific areas of work as relevant. Undertaking the work jointly with Harborough will also enable sharing of knowledge and ideas and make better use of capacity and resources.
- 7.3 In addition, a small working group has been established with the other Leicestershire and Leicester councils to consider mitigation of risk and ensure a consistent approach sub-regionally. As the area with the largest Armed Forces community, Rutland is leading this monthly meeting.
- 7.4 **Work Plan**
 - 7.4.1 An initial plan has been developed covering the following areas:
 - a) Education
 - b) Housing
 - c) Health
 - d) Training and awareness raising (internally)
 - e) External communications
 - f) Evidencing compliance
 - 7.4.2 The work plan sets out the key actions needing to be undertaken, timescales and

the officer lead responsible in each business area.

8 CONSULTATION

8.1 The Armed Forces Officer for Rutland is engaged with the Local Government Association and Ministry of Defence Armed Forces Covenant Team to provide direct feedback into the national guidance being produced.

8.2 Regular updates are provided to the Member Armed Forces Champion as part of the overall Armed Forces work update.

9 ALTERNATIVE OPTIONS

9.1 There is no alternative to complying with the legislation.

10 FINANCIAL IMPLICATIONS

10.1 There is no New Burdens funding attached to the legislation. Local authorities are expected to implement without any additional resources.

10.2 There are a number of potential risks for Rutland in terms of finance and resources:

i) Costs of training materials and officer time;

ii) Communications resources, awareness raising, and wider communications;

iii) Cost implications for SEND services, given the size of the serving population, and young veteran families.

10.3 Depending on any additional policy areas included in the future, the Council may face additional financial risks or pressures.

10.4 As part of the implementation planning, officers are considering possible mitigation of these.

11 LEGAL AND GOVERNANCE CONSIDERATIONS

11.1 Once the Armed Forces Bill has been passed, the requirement will be within legislation and the Council will have a duty to comply.

12 DATA PROTECTION IMPLICATIONS

12.1 A Data Protection Impact Assessments (DPIA) has been completed. No adverse or other significant risks/issues were found. A copy of the DPIA can be obtained from Karen Kibblewhite.

12.2 Information on individuals' Armed Forces status will be managed in line with information collected under Equalities legislation.

13 EQUALITY IMPACT ASSESSMENT

13.1 An Equality Impact Assessment screening has been undertaken. A full Equality Impact Assessment has not been undertaken as the legislation will not have an adverse impact on other specific groups.

- 13.2 Recording of Armed Forces status will be undertaken as part of the Council's equality and diversity monitoring, including inclusion in Equality Impact Assessments undertaken for policy and decision-making.

14 COMMUNITY SAFETY IMPLICATIONS

- 14.1 There are no specific Community Safety implications arising from the implementation of the legislation.

15 HEALTH AND WELLBEING IMPLICATIONS

- 15.1 The requirement of 'due regard' will mean that any Armed Forces specific consideration for Rutland residents in relation to their health and wellbeing will necessarily have to be considered, both on an individual level and in relation to strategy and policy development.

16 ORGANISATIONAL IMPLICATIONS

- 16.1 Human Resource implications

- 16.1.1 Training of all officers will need to be undertaken to ensure that the responsibilities under the Covenant duties are understood in relation to each service area. There is a suggestion that training resources may be provided centrally by the MOD Armed Forces Covenant Team, but this is yet to be confirmed.

- 16.1.2 The Council will need to ensure that staff status in relation to Armed Forces is recorded. Again, this will be managed in line with other Equalities information recorded.

- 16.2 Communications Implications

- 16.2.1 A communications strategy is being developed to ensure that Rutland's Armed Forces communities and internal stakeholders are aware of the legislation and its implications.

- 16.2.2 Given the expected high profile of the legislation, any communications provided by the Council will support the management of expectations within the community.

17 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 17.1 The legislation will have an impact across the Council, not just in those areas it specifically refers to. The Council will need to be able to demonstrate how the legislation is complied with and ensure that it is implemented effectively.

18 BACKGROUND PAPERS

- 18.1 There are no additional background papers to the report.

19 APPENDICES

- 19.1 There are no appendices to the report.

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.