

RUTLAND HEALTH AND WELLBEING BOARD

11 January 2022

NEW ARMED FORCES LEGISLATION

Report of the Strategic Director for Adult Services and Health

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|--------------------------------|---|---|
| Strategic Aim: | Vibrant communities | |
| Exempt Information | No | |
| Cabinet Member(s) Responsible: | Cllr I Razzell, Armed Forces Champion | |
| Contact Officer(s): | John Morley, Strategic Director for Adult Services and Health | 01572 758442 jmorley@rutland.gov.uk |
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| Ward Councillors | Not Applicable - | |

DECISION RECOMMENDATIONS

That the Committee:

1. Notes the implications of the forthcoming amendment to the Armed Forces Bill for Rutland County Council, the CCG, and health providers.

1 PURPOSE OF THE REPORT

- 1.1 This report outlines the new Armed Forces Covenant legislation being implemented 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 AND MAIN CONSIDERATIONS

- 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.

3.4 In addition, the MOD is planning significant changes to Reservists in the future which are likely to impact further both on our population and on the numbers the new duty applies to locally.

4 THE LEGISLATION

4.1 The legislation was passed on 15th December 2021, with the MOD stating that it is expected to stand-up from mid-2022, allowing public bodies six months to implement.

4.2 The Council and Health partners are 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:

4.2.1 **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).

- 4.2.2 **Housing** including allocation of social housing; homelessness applications; adaptations and Disabled Facilities Grants; tenancy strategies; and improvements of living conditions.
- 4.2.3 **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).
- 4.3 It 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.
- 4.4 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.
- 4.5 The legislation will be enforced through existing internal complaints procedures, relevant ombudsmen or as last resort, judicial review.
- 4.6 The Ministry of Defence Armed Forces Covenant Team (AFCT) are developing statutory guidance to accompany the duty, further details on which and on timelines and preparations for implementation are planned for early this year.

5 IMPLICATIONS FOR THE COUNCIL

- 5.1 The key issue is ensuring clear demonstration that that the legislative requirements of paying 'due regard' and 'special consideration' are met.
- 5.2 Rutland is already well-placed in terms of Covenant delivery – the Council has been signed up to the Covenant for a number of years and has 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 Integrated Care System signed up to the Covenant as a group of partner organisations in November 2021 and so is also committed to delivering to the Armed Forces community across LLR.
- 5.4 All statutory partners and those organisations contracted to deliver on behalf of statutory partners will need to take steps to ensure that sufficient evidence and data is collected to be able to demonstrate how the Covenant Duties are met.
- 5.5 The MOD have stated that the legislation will be enforced and has currently proposed a grace period between implementation and enforcement until the summer.

- 5.6 The MOD have also stated that a review into the support offered by public bodies 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.
- 5.7 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 and health partners will do in response are managed appropriately.

6 IMPLEMENTATION

- 6.1 Implementation of the new legislation within the Council is being managed using the Corporate Project Governance process to ensure rigorous oversight.
- 6.2 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.
- 6.3 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.
- 6.4 Health partners will have their own processes for overseeing implementation and any changes needed, and it is important that all partners are sighted on each other's plans in order to understand any implications and to share resources.
- 6.5 The Council's implementation plan has been developed to cover the following areas:
- Education
 - Housing
 - Health
 - Training and awareness raising (internally)
 - External communications
 - Evidencing compliance

6.6 The plan sets out the key actions needing to be undertaken, timescales and the officer lead responsible in each business area.

7 CONSULTATION

7.1 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.

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

8 ALTERNATIVE OPTIONS

8.1 There is no alternative to complying with the legislation.

9 FINANCIAL IMPLICATIONS

9.1 There is no New Burdens funding attached to the legislation. Public bodies are expected to implement without any additional resources.

9.2 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, including health provision, given the size of the serving population, and young veteran families.
- iv) Cost implications of data collection, collation and reporting in both officer time and systems to do so.

10 LEGAL AND GOVERNANCE CONSIDERATIONS

10.1 The requirement is now within legislation under the Armed Forces Bill, and Public Bodies have a duty to comply.

11 DATA PROTECTION IMPLICATIONS

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

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

12 EQUALITY IMPACT ASSESSMENT

12.1 An Equality Impact Assessment screening has been undertaken for the Council. A full Equality Impact Assessment has not been undertaken as the

legislation will not have an adverse impact on other specific groups.

- 12.2 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.

13 COMMUNITY SAFETY IMPLICATIONS

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

14 HEALTH AND WELLBEING IMPLICATIONS

- 14.1 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 across both the Council and Health partners.

15 ORGANISATIONAL IMPLICATIONS

15.1 Human Resource implications

- 15.1.1 Training will need to be undertaken to ensure that the responsibilities under the Covenant duties are understood in relation to each service area. Training resources may be provided centrally by the MOD Armed Forces Covenant Team, but this is yet to be confirmed.
- 15.1.2 Staff status in relation to Armed Forces needs to be recorded. This will be managed in line with other Equalities information recorded.

15.2 Communications Implications

- 15.2.1 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. This is being joined up across the Local Authorities in LLR to ensure consistency, led by Harborough District Council.
- 15.2.2 Given the expected high profile of the legislation, any communications provided by will need to support the management of expectations within the community.

16 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

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

17 BACKGROUND PAPERS

17.1 There are no additional background reports.

18 APPENDICES

18.1 Appendix A. List of Bodies and Functions in Scope

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

Appendix A. LIST OF PUBLIC BODIES AND FUNCTIONS IN SCOPE

| BODIES IN SCOPE | DUTIES IN SCOPE | WHAT THESE MEAN (SUMMARY) |
|---|--|---|
| EDUCATION | | |
| <ul style="list-style-type: none"> • Local Authorities • Governing bodies of maintained schools • Proprietors of Academies • Non-maintained special schools • Governing bodies of further education institutions • Special post-16 institutions | <ul style="list-style-type: none"> • the Education Act 1996 | <p>Establishes the statutory system of education, general functions of LAs, duties for various types of schools, establishes and covers SEND – both in terms of assessments and special schools. Covers curriculum, admissions, attendance.</p> |
| | <ul style="list-style-type: none"> • Part 3 of the School Standards and Framework Act 1998 (school admissions) | <p>Looks at admissions, including arrangements, number of places and appeals.</p> |
| | <ul style="list-style-type: none"> • s175 of the Education Act 2002 (duties of local authorities and governing bodies in relation to welfare of children) | <p>Governing bodies and LAs of maintained schools and FE colleges to make arrangements to ensure that their functions are exercised with a view to safeguarding and promoting the welfare of children.</p> |
| | <ul style="list-style-type: none"> • any provision of Part 3 of the Children and Families Act 2014, so far as it deals with special educational provision | <p>SEND identification, EHCP authority joint work, reviews, co-operation and appeals.</p> |

| BODIES IN SCOPE | DUTIES IN SCOPE | WHAT THESE MEAN (SUMMARY) |
|---|--|--|
| HOUSING | | |
| <ul style="list-style-type: none"> • Local Authorities | <ul style="list-style-type: none"> • Part 6 of the Housing Act 1996 (allocation of housing accommodation) | Allocation of social housing, eligibility, applications and allocations schemes. |
| | <ul style="list-style-type: none"> • Part 7 of the Housing Act 1996 (homelessness: England) | Homelessness – Applications, eligibility, duty to accommodate, duty to assess, referrals to other LHAs. |
| | <ul style="list-style-type: none"> • Part 1 of the Housing Grants, Construction and Regeneration Act 1996 (grants, etc for renewal of private sector housing) | Duties concerning grants, including renovation, common parts, DFGs, & HMO. Also sets out restrictions and payment/repayment. |
| | <ul style="list-style-type: none"> • s1 of the Homelessness Act 2002 (duty of local housing authority in England to formulate a homelessness strategy) | Duty of local housing authority in England to formulate a homelessness strategy. |
| | <ul style="list-style-type: none"> • s150 of the Localism Act 2011 (tenancy strategies) | LHAs to prepare and publish tenancy strategy looking at policies of kinds of tenancies granted, circumstances in which they would give kinds of tenancies, term lengths and granting further tenancies on the coming to end of a tenancy. |
| | <ul style="list-style-type: none"> • reg3 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860) (power of local housing authorities to provide assistance), so far as that regulation deals with the provision of financial assistance for a purpose corresponding to any purpose specified in s23 of the Housing Grants, Construction and Regeneration Act 1996 (disabled facilities grants) | For the purpose of improving living conditions in their area, a local housing authority may provide, directly or indirectly, assistance to any person for the purpose of enabling him to acquire, adapt, repair, demolish and construct replacement accommodation. |

| BODIES IN SCOPE | DUTIES IN SCOPE | WHAT THESE MEAN (SUMMARY) |
|---|--|---|
| HEALTHCARE | | |
| <ul style="list-style-type: none"> • Local Authorities • NHS Commissioning Board • CCGs • National Health Service Trusts • NHS Foundation Trusts | <ul style="list-style-type: none"> • the National Health Service Act 2006 | <p>Sets out the structure of the National Health Service in England and general functions of each public body, incl. NHS Commissioning Board, CCGs, NHS Trusts and Foundation Trusts. Promote the NHS constitution, improve services, effectiveness, patient choice and involvement, reduce inequalities, provision of services, administration and management, property, finance etc. Looks at medical, dental, ophthalmic & pharmaceutical aspects.</p> |
| | <ul style="list-style-type: none"> • any provision of Part 3 of the Children and Families Act 2014 (children and young people in England with special educational needs or disabilities), so far as it deals with health care provision | <p>SEND identification, EHCP authority joint work, reviews, co-operation and appeals.</p> |