

People and Health Overview Committee

24 March 2022

Preparation for the Armed Forces Act 2021

For Review and Consultation

Portfolio Holder: Cllr L Miller, Customer and Community Services

Local Councillor(s): Cllr. D Walsh – Armed Forces Member Champion

Executive Director: A Dunn, Executive Director, Corporate Development

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Report Status: Public

Brief Summary: To prepare Dorset Council for the implementation of the Armed Forces Act 2021 which creates a legal obligation for the Council to have 'due regard' to the three principles of the Armed Forces Covenant (AFC). This is the Armed Forces Covenant Duty. This report sets out a summary of this duty.

Additionally, having briefly reviewed current available Dorset Council policies covered by it, indicate what actions may need addressing prior to the legislation being enacted.

Recommendation:

1. Note the new legal obligations
2. To support the inclusion of the requirements of the Armed Forces Act 2021 within the development of new policies and the review of current policies.

Reason for Recommendation:

To ensure legal compliance

1. The Armed Forces Covenant Duty

1.1 The Armed Forces Act 2021 amends the Armed Forces Act 2006 to create a legal obligation on relevant bodies, when exercising relevant statutory

functions, to have due regard to the three principles of the Armed Forces Covenant (AFC). This is the Armed Forces Covenant Duty.

1.2 Three principles of the AFC

- 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.

1.3 The new duty will apply to specified persons or bodies, including councils, when exercising **certain housing, education or healthcare functions** (excluding social care). The private sector is not in scope. When such a body develops, implements or reviews a relevant policy, or makes decisions on its delivery of relevant services, it must consider the Covenant principles. Namely, whether the Armed Forces Community experiences disadvantages, attributable to the unique obligations and sacrifices of service life, that can be removed, and whether special provision is merited. The Duty is not prescriptive about the actions bodies should take in order to comply, and it does not mandate specific public service delivery outcomes or advantageous treatment of the Armed Forces Community.

1.4 The Act received Royal Assent in December 2021 and now requires the Secretary of State for Defence to lay draft statutory guidance before Parliament. It is understood that the Ministry of Defence intends to commence the due regard duty by December 2022 (amended from the planned Summer of 2022 on the 10th February 2022) and that the statutory guidance will be published ahead of that to give councils time to prepare for its implementation. Additionally, to support its implementation, there will be guaranteed resources including an eLearning package and a comms/PR/awareness package. We are expecting to receive a third draft of the statutory guidance imminently for final comment; to be published in final by the summer.

1.5 Most councils have voluntarily signed the Armed Forces Covenant. Dorset Council signed in July 2019. The Act's further enshrinement of the Covenant into law is an opportunity to build upon work we are already leading to help serving personnel, veterans, and their families to have the same equality of access to public services as their civilian neighbours. The forthcoming statutory guidance will enable us to fully understand the implications of the due regard duty for councils. We expect the guidance to contain advice and good practice examples about how bodies might comply the duty.

2. A summary of the functions in scope of the Covenant Duty

2.1 The Covenant Duty applies to specific functions within the fields of **healthcare, education, and housing** services. These are key areas where disadvantages to members of the Armed Forces Community have commonly arisen. The focus of the legislation is on local – and, as appropriate, regional – provision of these services.

Healthcare	Education	Housing
<ul style="list-style-type: none"> • Provision of services • Quality of services • Funding • Co-operation between health bodies and professionals • Functions concerning additional needs that healthcare bodies have a role in delivering. 	<ul style="list-style-type: none"> • Admissions • Transport • Attendance • Additional Needs support • Educational attainment and curriculum • Student Wellbeing • Use of Pupil premium 	<ul style="list-style-type: none"> • Allocations policy for social housing • Homelessness • Disabled facilities grants • Tenancy strategies (England only)

2.2 More detail on the specific functions in appendix 1

2.3 The MOD have published 2 connecting draft strategies in support of the Armed Forces Act 2021:

- Office for Veterans Affairs (OVA) – Veterans Strategy Action Plan 2022-2024
- MOD – UK Armed Forces strategy 2022-2032

3. Practical steps we can take to get ready for the Act

3.1 Whilst the forthcoming statutory guidance will set out the detailed requirements for councils to implement the due regard duty, the LGA have set out some practical steps that Dorset Council can take now to start to get ready for the anticipated commencement of the duty at the end of this year:

<ul style="list-style-type: none"> • Raise awareness about the forthcoming due regard duty, and the anticipated implementation timeframe, with colleagues in housing, education and healthcare services, and with external partners from other in-scope organisations 	
<ul style="list-style-type: none"> • Convene initial local discussions, pending the publication of the statutory guidance, about the potential impact of the due regard duty on relevant council functions to identify potential gaps / areas to strengthen in local policies, processes and procedures across housing, education and health care 	√
<ul style="list-style-type: none"> • Identify potential training needs for frontline council staff working in housing, education and healthcare services – please note that the e-learning modules for councils developed by the Coventry, Solihull and Warwickshire Armed Forces Covenant partnership are being updated to take account of the duty. 	

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<ul style="list-style-type: none"> Participate in regional discussions about getting ready for the due regard duty that may be happening at regional Armed Forces Covenant Partnerships 	√
<ul style="list-style-type: none"> Record costs that we may incur getting ready for the introduction of the Act and share these with the LGA to feed into the ongoing new burdens work 	
<ul style="list-style-type: none"> Identify potential learning from the local introduction of other similar duties, such as the Public Sector Equality Duty 	
<ul style="list-style-type: none"> Join the LGA's Armed Forces Officer Covenant Network to hear latest updates from the Ministry of Defence, help shape the national statutory guidance and share learning with other councils. The AFC Programme coordinator also represents the SW on the LGA Regional AFC Group. 	√

4 Financial Implications

4.1 There is no new government funding attached to the Act. We, like many South West Councils have indicated to the MOD that we will incur costs to get ready for and implement the new duty. The MOD has committed to review potential new burdens costs for councils one year after the commencement of the duty.

4.2 It is worth noting that the Armed Forces Programme co-ordinator is a fixed term pan Dorset post until 31st March 2024 due to external MOD funding.

5 Climate Implications

5.1 No known implications

6 Well-being and Health Implications

6.1 Delivering these new legal obligations should have a positive impact on Dorset's Armed Forces serving personnel, their families and the veteran community.

6.2 It is worth noting the Adults and Children's social care is not currently included in the proposed legislation, however there are plans to include these at a later date

7 Other Implications

7.1 No other known implications

8 Risk Assessment

8.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

9 Equalities Impact Assessment

9.1 This new legislation seeks to actively remove disadvantage and, in some cases, consider whether special provision is merited. An EqlA will need to be completed.

9.2 The Armed Forces Community are currently a local protected characteristic as determined within our Equality, Diversity and Inclusion strategy and action plan.

10 Appendices

- Appendix 1 - Functions in scope of the Covenant Duty
- Appendix 2 - Precis of all available Dorset Council policies which are relevant to this legislation

11 Background Papers

None included

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

Appendix 1 - Functions in scope of the Covenant Duty

<p>Healthcare</p>	<p>Provision of services Quality of services Funding Co-operation between health bodies and professionals Functions concerning additional needs that healthcare bodies have a role in delivering.</p>	<p>Clinical Commissioning Groups, which means a body established under section 14D of the National Health Service Act 2006. NHS Commissioning Boards NHS Foundation Trusts NHS Trusts Local Authorities, which means a county council in England, a district council, a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly.</p>	<p>The National Health Service Act 2006 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. 'Health care provision' is to be interpreted as in Part 3 of the Children and Families Act 2014 (see section 21 of that Act).</p>
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<p>Education</p>	<p>Admissions Transport Attendance Additional needs support Educational attainment and curriculum Student wellbeing Use of Service Pupil Premium funding (England only)</p>	<p>Local Authorities, which means a county council in England, a district council, a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly</p> <p>Governing bodies of maintained schools, where 'maintained school' has the same meaning as in the School Standards and Framework Act 1998 (see section 20 of that Act)</p> <p>Proprietors of Academies, where 'Academy' has the same meaning as in the Education Act 1996 (see section 579(1) of that Act), and 'proprietor', in relation to an Academy, has the meaning given by section 579(1) of the Education Act 1996.</p> <p>Non-maintained special schools, which means a school which is approved under section 342 of the Education Act 1996.</p> <p>Governing bodies of institutions within the further education sector, where 'governing body' here has the meaning given by section 90 of the Further and Higher Education Act 1992, and 'institution within the further education sector' is to be interpreted in accordance with section 91(3) of the Further and Higher Education Act 1992.</p> <p>Special post-16 institutions – this term has the same meaning as in the Children and Families Act 2014 (see section 83 of that Act).</p>	<p>The Education Act 1996</p> <p>Part 3 of the School Standards and Framework Act 1998 (school admissions)</p> <p>s175 of the Education Act 2002 (duties of local authorities and governing bodies in relation to welfare of children)</p> <p>Any provision of Part 3 of the Children and Families Act 2014, so far as it deals with special educational provision. 'Special educational provision' is to be interpreted as in Part 3 of the Children and Families Act 2014 (see section 21 of that Act).</p>
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<p>Housing</p>	<p>Allocations policy for social housing</p> <p>Homelessness</p> <p>Disabled facilities grants</p> <p>Tenancy strategies (England only)</p>	<p>Local Authorities, which means a county council in England, a district council, a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly.</p>	<p>Part 6 of the Housing Act 1996 (allocation of housing accommodation)</p> <p>Part 7 of the Housing Act 1996 (homelessness: England)</p> <p>Part 1 of the Housing Grants, Construction and Regeneration Act 1996 (grants, etc for renewal of private sector housing)</p> <p>s1 of the Homelessness Act 2002 (duty of local housing authority in England to formulate a homelessness strategy)</p> <p>s150 of the Localism Act 2011 (tenancy strategies)</p> <p>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: purposes).</p>
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Appendix 2 – Dorset Council policies referring to the Armed Forces Covenant/Community

Policy theme	Policy	Reference	Author	Note
Housing	Housing allocation policy 2021-26	Section 14 Exclusions 14.1(k)(l)(m)	Sharon Attwater, Service Manager for Housing Strategy and Performance	Due to be reviewed in 2026. Refers to Armed Forces Act 2006.
		Section 17 Financial resource limit 17.4(c)		
		Appendix 3 - page 45		
		EqIA <ul style="list-style-type: none"> - Part 5 (Analysing the Impact) states positive impact: 'statutory guidance issued June 2020 has been incorporated into the proposal. Families of serving and former members of the Armed Forces are now included. The requirement for local connection criteria is currently 5 years in some parts of the area and the proposed requirement is reduced to 2 years or 3 years out of the last 5 years. The spirit of the guidance has been considered.' - Part 5 (Action Plan) states that there will be an annual review to address 'improving access to social housing for members of the Armed Forces' and apply Service Manager's discretionary if appropriate and reflect in annual monitoring.' 		

	<p>Private sector housing assistance policy (Nov 2020)</p> <p><i>Link to 'Empty Homes Policy'</i></p>	<p>Section 17 Ensuring Equality and the Armed Forces</p>	<p>Richard Conway, Service Manager for Housing Standards</p>	<p>Due to be reviewed in Nov 2023.</p>
		<p>Appendix 2</p>		
	<p>Homelessness & Rough Sleeping Strategy 2021-2026</p> <p><i>Link to 'Housing Plan' and 'Housing Strategy'</i></p>	<p>Section 4.2 Preventing homelessness</p>	<p>Sharon Attwater, Service Manager for Housing Strategy and Performance</p>	<p>Reviewed July 2021. Next review will be July 2026.</p>
	<p>EqlA</p> <ul style="list-style-type: none"> - Section on 'preventing homelessness' states, 'there is a strong provision for Armed Forces and former Armed Forces personnel who become homeless.' - Part 3 (Engagement and consultation) page 8 - Part 4 (Analysing the Impact) – 'there is recognition these households experience different factors that impact on homelessness. The current support and routes to support for these households is acknowledged and actions are identified to strengthen this.' - Part 5 (Action Plan) – in 2022, for the Armed Forces community, the Service Manager for Housing Strategy will undertake a 'review of homelessness prevention activities and ways of identifying these households to raise awareness of and refer to specialist support available.' 			

Educatio n	Admission of Armed Forces Community Children Policy 2023-2024 Policy applies to all schools where Dorset Council (DC) is the admissions authority (community and voluntary controlled schools) – it will also be promoted for adoption with Dorset schools which are their own admissions authorities (academies, foundation, voluntary aided and free schools).	See full detail of policy.	Ed Denham, Manager Education Services	Reviewed annually.
Health	Nothing found within the policy library			

Adult Social Care	Nothing found within the policy library			
Corporate: Procurement	Commercial Strategy – Commissioning and Procurement 2021	<p>Applying Corporate Social Responsibility (CSR): page 17</p> <p>3. <u>Armed Forces Covenant</u></p> <p>The Council is a signatory to the Armed Forces Covenant which is written and publicised voluntary pledge from organisations who wish to demonstrate their concrete support for the armed forces community. Aim: To encourage suppliers to also become a signatory to reflect the Council’s own commitment to support the forces through services, policy, and projects. The Armed Forces Covenant is a promise from the nation to those who serve or who have served, and their families, which says we will do all we can to ensure they are treated fairly and not disadvantaged in their day-to-day lives. The Armed Forces Covenant relies on the people, communities, businesses of the UK to actively support it in order to make a difference. For further details: https://www.gov.uk/government/policies/armed-forces-covenant</p> <p>Appendix B – Corporate Social Responsibility Statements</p> <p><u>Armed Forces Covenant</u></p> <p>The Council is a signatory to the Armed Forces Covenant which is written and publicised voluntary pledge from organisations who wish to demonstrate their concrete support for the armed forces community. For further details:</p>	<p>Author: Dawn Adams Head of Service Procurement and Commercial</p>	

		<p>https://www.gov.uk/government/policies/armed-forces-covenant Please state whether your organisation is also a signatory to the Armed Forces Covenant or can commit to be a signatory, if awarded the contract / framework agreement. Select the appropriate statement:</p> <ul style="list-style-type: none"> ▪ Yes, our organisation is also a signatory to Armed Forces Covenant ▪ Yes, our organisation can commit to be a signatory to The Charter for Employers, if awarded the contract / framework agreement 		
<p>Equality and Diversity</p>	<p>Equality Scheme 2019-2023 Policy sets out Dorset Council's approach to equality, diversity and inclusion.</p>	<p>Section 4.8 and EqIA Step 1: Aims identifies 'local characteristics' including 'people with an armed forces background and their families.'</p> <p>EqIA Step 3: Assessment</p> <p>Page 22 Military Families/Veterans – positive impact identified.</p> <p>'Population of Dorset Council area: The profile of Dorset is as follows: All usual residents living in a household where the Household Representative Person (HRP) is a member of the armed forces Military 4,491 Source: Census 2011, Office for National Statistics Please note the above figure is from the 2011 Census for usual residents living in households where the Household Representative Person is a member of the armed forces. Those living in households where a member of the armed forces is not</p>	<p>Susan Ward-Rice (Former) EDI Officer</p>	<p>2023</p>

		<p>the HRP are not included in these figures. Dorset Council Workforce profile: At present we do not collect data on employees who may be veterans or partners of military personnel. Dorset Council has signed the Armed Forces Covenant and it has an employer bronze standard award. This is to ensure that Dorset residents who have served in the forces or are currently serving and their immediate families are Appendix 2 23 not put at a disadvantage because of the service. As part of their commitment to obtaining the silver award, there will be a campaign in the 2020 to encourage employees to advise if they are veterans and/or reservists. There is also a need to link with other policies/initiatives such as flexible working and family friendly which can help employees. Dorset Council anticipates that this will be a positive impact, as military families/veterans are included in our EqlA template as a local characteristic, this is to ensure we give due regard to local issues. An EqlA is a process designed to ensure that any new or changing policies, projects, plans and strategies does not discriminate against people with protected characteristics. In addition, this group will also have other protected characteristics, and the Equality, Diversity and Inclusion Policy provides the framework to ensure compliance with the Equality Act 2010 and Public Sector Equality Duty.'</p>		
Culture	Cultural Strategy 2021-2026	<p>State in EqlA for Armed Forces community:</p> <p>'The Cultural Strategy will encourage and support organisations to deliver projects and initiatives that will support Armed Forces communities to have access to culture, for example: - targeted work delivered by the Tank Museum and The Keep Military Museum to support veterans.'</p>	Paul Rutter, Service Manager for Leisure Services	2026

<p>HR/OD</p>	<p>HR and OD policies</p>	<p>Have the following HR provisions:</p> <p>‘Leave information for reserve forces’ which offers a volunteer Reservist with any of the Armed Forces up to ten working days or two weeks paid leave each year for reserve forces training. It also covers support for our employees who are a partner or spouse of a Reservist who is called up. For example, if a partner has been mobilised and a DC employee would like to make short term arrangements to manage their work-life balance in their absence, they have the right to request flexible working or a career break through the DC’s policies on ‘flexible working’ and ‘career breaks’.</p> <p>If the employee has childcare responsibilities or other dependants, DC has a range of ‘family friendly policies’ in place and family leave can be requested.</p> <p>For Reservists who are members of the LGPS or NHS Pension Schemes and are called up for reservist service their pension continues to build up, for the duration the period that they are called up.</p> <p>For Reservists who are members of the Teacher pension scheme they are given the option to continue to make their normal pension contributions during the period of reservist service.</p> <p>Leave provisions, specifically the Compassionate Leave and/or Time Off for Dependents policies can be accessed to support the</p>	<p>David McIntosh, Corporate Director (HR & OD)</p>	
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		<p>needs of spouses and partners during times of their partner's deployment, injury or bereavement.</p> <p>We also offer a wide range of Wellbeing support (including counselling) to our employees.</p>		
		<p>The current 'Recruitment and Retention Project' is reviewing DC's Recruitment policy and is currently developing a Guaranteed Interview process for those who are serving or who have served.</p>	<p>Chris Matthews, Service Manager for HR Operations</p>	