



Ministry
of Defence

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JOHNNY MERCER MP
PARLIAMENTARY UNDER-SECRETARY OF STATE AND MINISTER
FOR DEFENCE PEOPLE AND VETERANS

24 March 2021

Dear James

I am writing in response to your letters, dated 4 and 18 March, requesting that we share an early version of the draft statutory guidance to be issued by the Secretary of State in relation to the duties imposed under clause 8 of the Armed Forces, relating to the Armed Forces Covenant. Please accept my apologies for length of time taken to respond.

Further to the evidence session today, I want to clarify that it would be highly unusual in these circumstances to be able to share fully-drafted, complete statutory guidance at this stage in the Bill. We are, however, in a position to share an annotated version of the framework document to highlight areas that will be drafted as our engagement progresses, for the information of Committee members. I must emphasise this document is a working draft as we will continue to engage with key stakeholders over the coming months to finalise its content, not least as the new legislation places an obligation on the Secretary of State to consult with various bodies in the production of the guidance. Building on the engagement to date, including the short survey among local authority and other stakeholder representatives, at the end of last year, which captured areas and issues that they would like to see covered in the guidance and wider supporting material, we aim to consult on the final version of the guidance after Royal Assent so the Secretary of State is able to ensure that it takes account of all points raised during the passage of the Bill, and the views of relevant stakeholders, before publication. It is vital that we do so as we need to ensure that this guidance meets the needs of service providers to maximise the effectiveness of the new legislation.

In accordance with the draft legislation, the guidance must relate to the duties imposed by the new sections 343AA to 343AD as the bodies subject to the duty must have regard to it when exercising relevant functions. It is our view that this guidance should therefore cover matters such as the principles of the Covenant, including explanations of the unique nature of service life and the disadvantages to which this can give rise, and should also provide such bodies with a clear understanding of which members of the armed forces community may be affected in these areas.

In addition, the MOD also plans to work with stakeholders to develop a range of

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Enclosure

additional supporting material that will focus on sharing best practice in delivery and looking at the wider scope of the voluntary Covenant that will be developed in parallel to the guidance.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'JM', with a stylized, cursive flourish.

JOHNNY MERCER MP

**ARMED FORCES COVENANT
STATUTORY GUIDANCE FRAMEWORK**

DRAFT – SUBJECT TO CONSULTATION

The Secretary of State may issue guidance relating to the duties to be imposed by the proposed new sections: Sections 343AA to 343AD of the Armed Forces Act 2006.

The following framework represents the Department's current thinking on the Guidance and sets out, section by section, how this might be structured, and what it might cover. Guidance will be drafted to assist public bodies in understanding what the new duty requires of them – specifically understanding the service-related issues facing the Armed Forces Community, the disadvantage that results and how the Covenant and the Covenant duty exists to resolve this. However, the guidance will also be of interest to other stakeholders, including the Armed Forces Community itself.

Please note: All content is subject to consultation with the affected public bodies and relevant stakeholders (e.g. charities, devolved administrations). The consultation will commence in three key stages between April 2021 and January 2022. Key to this process will be ensuring we collect ideal case studies across various sections of healthcare, housing and education sectors, including examples that best reflect devolution, in order to effectively demonstrate the issues facing the Armed Forces Community, how these may cause disadvantage and what Covenant best practice looks like to rectify these across the United Kingdom.

Once consultation is finalised the guidance document will be published, allowing sufficient time for public bodies to acquaint themselves with the guidance before the Covenant provisions come into force.

The Essential Guide to the Armed Forces Community: Advice for Public Bodies.

Covering the United Kingdom (with specific advice for England, Northern Ireland, Scotland and Wales)

Chapter: About this guidance

Purpose:

- The guidance will open with an administrative chapter that sets out the following:
 - Context of the guide – summary of purpose
 - Intended Audience
 - Summary of content
 - Publication information
 - Legal status
 - Foreword

Chapter: Armed Forces Issues

Purpose:

- To further develop understanding of the issues facing the Armed Forces Community (first principle), with examples or case studies (dependent on consultation). Examples currently include:
 - Physical and Mental Danger
 - Mobility
 - Emotional Stress
- An explanation of how these issues, and the nature of service life, can lead to disadvantage in accessing the key public services of education, healthcare and housing, with examples or case studies (dependent on consultation). Examples currently include:
 - Education. Problems in admissions, wellbeing, home-to-school transport, Special Educational Needs and Disability provision and Service Pupil Premium (SPP is specific to England only).
 - Healthcare. Reasonable access to, and quality of, healthcare, especially where this may entail waiting lists, for example for hospital treatment.
 - Housing. Securing social housing, disabled facilities grants, homelessness, and tenancy strategies.

Chapter: Actions to deliver the Armed Forces Covenant

Purpose:

- An explanation of how the Armed Forces Covenant exists to tackle service-related disadvantage (second principle), with examples or case studies (dependent on consultation) on how this is carried out at present. Examples could include, but are not limited to:
 - Education: Supplementary school places, service child clubs, family approaches to placements and transport.
 - Healthcare: Reassessments, waiting list placement, services provided, GP veteran-friendly accreditation.
 - Housing: removal of the requirement to prove local connection before accessing social housing. Guidance produced in support of recent former Armed-Forces partners.
- An explanation of Special provision (third principle), how in certain situations a case can be made for actions to be taken over and above those required to remove a service-related disadvantage. Specifically:
 - Advantageous treatment as recognition that geographical disparities in service provision exist noting the Armed Forces mobility requirement, e.g. funding for IVF cycles for Service families, dedicated veterans' treatment pathways for prosthetics and hearing loss.
 - Actions to mitigate or remove disadvantage that require special provision to be made, e.g. bespoke and exclusive NHS Veterans Mental Health Transition and Liaison Service.

Chapter: The Armed Forces Covenant Duty

Purpose:

- Explanation of how the effectiveness of the Covenant derives from its direction towards an intended outcome without being prescriptive as to means to achieve that outcome. A duty to have due regard to the Covenant enables individual service providers to meet that outcome in the manner that best befits their own specific delivery and resource envelope while still remaining true to the intent of the legislation to achieve the best possible outcome for the Armed Forces Community without creating disadvantage or resentment among the civilian population who are also accessing those public services.
- Explanation of the Armed Forces Covenant Duty as a means to raise awareness of the Armed Forces Covenant principles and the needs of the Armed Forces Community.

- Provides a broad understanding of the requirements of ‘having due regard’ and explaining this within the specific context of the Armed Forces Covenant. An explanation of the limitations of the duty, such as scope, private bodies, and more.
- Clarifies contents of the legislation: the public bodies covered, the statutory duties within the three fields of housing, healthcare and education in scope, and why (e.g. admission policy for schools, waiting lists for NHS). A brief explanation of how devolution factors into Covenant and Covenant duty considerations.
- A breakdown of who is considered to be a member of the Armed Forces Community under the duty, including clarifying which members of the Armed Forces Community are particularly relevant in relation to each strand of education, healthcare and housing policy (e.g. children of serving personnel in education, veterans for housing).

Chapter: Enforcement

Purpose:

- Explanation of complaints processes for resolving issues initially and the role of relevant Ombudsmen.

Chapter: More information

Purpose:

- To provide awareness of wider supporting information, including:
 - Related guidance on healthcare, housing and education produced by other Government departments, devolved administrations, and local and third sector bodies.
 - Optional training offer to enhance learning of the duty.
 - Centralised, agreed, community-driven best practice case studies.
 - Contact information for further advice, including the MOD Covenant Team, Armed Forces Champions, and more.

Chapter: Appendices

Purpose:

- Appendices will provide the following information:
 - A copy of the latest agreed Bill clauses specific to the Covenant duty.
 - A glossary of terms.