



The Nation's Commitment to the Armed Forces Community: Consistent and Enduring Support

A Consultation Paper

Presented to Parliament
by the Secretary of State for Defence
By Command of Her Majesty

July 2009

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Foreword Secretary of State for Defence

Last summer's publication of the Command Paper, 'The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans', was vital to delivering improved welfare and support for our people.

Well received by the Services, veterans groups and by the public, it set out a number of practical measures to support the Armed Forces community. We shall be publishing the first Annual Report in the autumn charting the progress that has been made. The Command Paper was an important step forward; we must now make permanent the approach it embodied.

Those who serve on our behalf place all that they have on the line for this country. In return, the nation has a commitment to make sure that they have the support they need and deserve, when they need it. I would like to build on the Command Paper for the long term to ensure the principles of no disadvantage and special treatment where appropriate are recognised, understood and upheld at all levels of administration, from policy formation right through to service delivery.

This consultation document is the next step in that process. It sets out our initial thinking on how we might secure consistent and enduring support for the Armed Forces community. The ideas it contains are therefore intentionally broad and wide ranging, they do not represent proposals for a particular course of action. I want to explore these ideas through a public consultation, where everyone can have their say about the best way forward. The responses received will help shape our thinking and deliver real and lasting effect for the Armed Forces community. I encourage you all to join the debate.

A handwritten signature in black ink, appearing to read 'Bob Ainsworth'. The signature is stylized and cursive, with a large initial 'B' and 'A'.

BOB AINSWORTH

Chapter 1: Introduction

- 1.1** Our Armed Forces are second to none. The demands we impose on them in the course of their duty are unique. These obligations set them apart from all others who serve and protect society. Their hardships are also felt by their families, and by many veterans too. The nation has a commitment to ensure that they are fairly treated. This commitment was laid out in last summer's publication of the Command Paper, 'The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans'. It was designed to end the disadvantage that military service imposes on Service personnel, their families and veterans, and to set out how we can better support and recognise those who have been wounded in the service of their country.
- 1.2** We require our Armed Forces to follow orders whatever the danger, moving around the country and the world as and when necessary. This mobility requirement makes it harder for Service personnel to exercise life choices, for example to achieve home ownership. Consequently, many serving personnel and their families find it difficult to reconcile life in the Armed Forces with their legitimate expectations. The Command Paper aimed to counter these difficulties, to uphold the Government's moral obligation and, on behalf of the nation, to honour its responsibility towards the Armed Forces. The Command Paper set out the essential starting point that those who serve must not be disadvantaged by virtue of what they do – and this will sometimes call for degrees of special treatment.
- 1.3** Underpinning this were the following enduring principles:
- **As much lifestyle choice as any citizen.** Despite the unique demands of their profession, Armed Forces personnel and their families should be able to manage their lives as easily as anyone else. They must be offered real and sustainable choices to achieve their own balance between the demands of military life, personal development, Service mobility and family stability.
 - **Continuity of public services.** Service mobility risks disadvantaging Service personnel and their dependants in relation to others – for example, in the allocation of school places or in access to benefits and NHS services. They must receive continuity of public service wherever they are based and whenever they are obliged to move.
 - **Proper return for sacrifice.** Servicemen and women accept conditions that impose limitations on how they live their lives, and they can suffer terrible physical and mental injury. Service personnel will receive the treatment and welfare support they need for as long as they require it. That need often extends through life and is equally applicable to families.
 - **The Armed Forces community matters.** The Armed Forces community includes Armed Forces personnel, their families and veterans and is vast – by one definition it totals over 10 million

people. Government departments, where appropriate Devolved Administrations, and other bodies should be taking account of the effect on the Armed Forces community when making policy or considering legislative proposals.

- 1.4** Whilst we are making significant progress on the specific measures to which we committed ourselves in the Command Paper, we also need to ensure that the commitment to upholding the Command Paper principles lasts. We want to promote an enduring shift in the way in which public bodies (and beyond) think about the Armed Forces community, so that their special circumstances and the potential for disadvantage are taken into account at all stages, from when policies are first conceived through to when they are experienced by the individual. This consultation paper seeks views on different options for securing consistent and enduring support for the Armed Forces community.

What we are already doing

- 1.5** Work carries on at pace across Government departments and the Devolved Administrations to deliver all of the commitments and initiatives set out in last year's Command Paper, and in the Scottish Ministers' commitments paper published at the same time. Key changes that we have delivered already are:

- Compensation for most serious injuries doubled.
- Free further education for Service leavers.
- Access to substantial grants to adapt houses for disabled veterans.
- Retention of places on NHS waiting lists.
- Help for Forces leavers to get on the housing ladder.
- Priority boarding school places for Forces children.
- Fairer treatment when Forces families apply for social housing.
- Help for Forces partners to find work when they move.

- Fairer route to British citizenship for Foreign and Commonwealth Forces children.
- Special advocates to speak up for the Forces in Government departments, and in the Devolved Administrations in Scotland and Wales.

The new Armed Forces Advocates from across Government and the Devolved Administrations are working effectively. They are both driving forward existing commitments, and identifying and correcting other policies that disadvantage the Armed Forces community.

- 1.6** The Command Paper also outlined a number of processes in place to ensure continued delivery. These include:
- The establishment of an External Reference Group chaired by the Cabinet Office to monitor progress and hold departments to account.
 - The publication of an Annual Report on progress.
 - A commitment to a full review of progress after five years.

- 1.7** Taken together, this is a substantial achievement. To look beyond is not to cast doubt on the effectiveness or importance of these steps, but to build on them for the long term.

What outcome are we seeking?

Our vision for the future is a nation where, as a matter of routine, all services are provided to the Armed Forces community in a way which prevents that community being subject to disadvantage, and provides special treatment where appropriate, including for those injured in Service; and where all those responsible for directing and delivering those services get the encouragement, guidance and recognition they need to make that happen.

- 1.8** This means making permanent the core principles (of no disadvantage and special treatment where appropriate) embodied in the Command Paper. Ensuring adherence to these principles at all levels of administration – central, devolved and local – will be key. The principles are not

contested; the challenge is for them to filter through to policy makers and to those responsible for service delivery. The approach must be seamless from the Minister's office to the service experienced on a daily basis by the individual.

1.9 The challenge can be illustrated with reference to examples, many related to mobility. The mobility associated with military service has, in the past, resulted in significant gaps in outcomes for Service personnel and their families, particularly in terms of access to public services:

- Some English local health authorities have applied a minimum two year residency criteria to assess eligibility for IVF treatment. This created a disadvantage – now being addressed by the Department of Health working with these authorities – for Service personnel and their families who could not satisfy the requirement to live in the area for a certain length of time due to frequent relocation. The problem did not arise from a deliberate attempt to exclude Service families, but from **a lack of awareness of their circumstances.**
- Accompanying spouses or civil partners of Service personnel posted overseas may, in some locations, have difficulty obtaining employment and thus maintaining their National Insurance contribution record for state benefit purposes. The Government has agreed to award Class 1 National Insurance Credits in these circumstances. This will be implemented in 2010 and will protect the eligibility of Service spouses and civil partners to a State Pension and to National Insurance contribution-based benefits such as Jobseeker's Allowance and Employment and Support Allowance. However, correcting this problem may not prevent something similar happening in the future, **unless consideration of the implications for the Armed Forces community is built into the policy-making process at an earlier stage.**

1.10 Comparable issues arise in ensuring consistent and enduring support to our

veterans, whose needs may be different from the population generally. We must ensure that they have proper access to the public services and specialist support they require. For example:

- Access to social housing can be more difficult for veterans. Local connection is often a factor in the allocation of social housing, but until last year (in England and Wales) Service personnel were prevented from establishing a local connection with the area in which they were serving. That could impinge on their access to social housing when they left the Armed Forces. In this case policy choices were made concerning the position of Service personnel, but **they were not choices we would make today, and no mechanism was in place to review the position.**
- One of the commitments made in the Command Paper was that Armed Forces Compensation Scheme payments would be disregarded in the means test for grants for housing adaptation. This was a case where **the case for special treatment had not previously been given sufficient weight in setting the rules.**

1.11 In the light of the demands placed on the Armed Forces community and the sacrifices they make, we want to ensure that they receive fair treatment that recognises fully the limitations placed on them due to military service. There are two parts to achieving this. One is to prevent disadvantage arising in the first place. We are therefore seeking to ensure that in planning, commissioning and resourcing services, public bodies will consider how to deliver their service in such a way as to minimise or remove the disadvantages faced by the Armed Forces community, both now and in the future.

1.12 The other element of the vision concerns the point of delivery. Policies are of little value if they are not understood or not observed by those who bear frontline responsibility for dealing with the Armed Forces community. A huge variety of bodies are involved at this level, from

Government departments administering benefits applications to medical practitioners or housing officers. Some of the approaches discussed in this paper may influence both the policy level and the delivery agencies; others will be specific to one or the other.

- 1.13** The potential benefits of taking some of the approaches laid out in this paper include:
- Ensuring the principles in the Command Paper are maintained into the future;
 - Ensuring delivery organisations apply these principles uniformly;
 - Ensuring that future legislation and policy take account of these principles;
 - Raising awareness and understanding of, and wider commitment to, these principles;
 - Giving intended beneficiaries a general recourse if these principles are not being applied; and
 - Providing a mechanism to make it easier for the Armed Forces community to make a specific complaint and have individual issues resolved.

Nature of the consultation

- 1.14** This consultation paper sets out a number of different options, in two broad areas: making the principles in the Command Paper consistent and enduring, and providing a new route for recourse. The options are not necessarily mutually exclusive. It may be that a mix of measures provides the best solution. Nor does the inclusion of any option reflect a preference for that course of action. This paper is intended to explain our current thinking and seek views on both individual options, and on how they might be combined to deliver consistent and enduring support to the Armed Forces community.
- 1.15** Where the options relate to devolved matters in Northern Ireland, Scotland and Wales we will work with the Devolved Administrations who are responsible for a number of areas such as health, housing, education, skills and transport, in determining how best to take forward the principles of achieving equal or similar

levels of support for the Armed Forces community. In these areas the Devolved Administrations will wish to consider the responses to this consultation in respect of devolved matters and determine a way forward that is appropriate for them, in consultation with their strategic partners. The UK Government will work with them to deliver a solution which supports the Armed Forces community across the UK.

- 1.16** It is usual practice for formal consultations to be accompanied by an Impact Assessment. This consultation paper is intended to be an early part of the debate. We have no preconceptions about the route to be taken, which will depend on the work to be done over the next few months to determine the scope, benefits and possible costs of all options. Therefore an Impact Assessment is not considered to be appropriate at this stage.
- 1.17** Under the New Burdens Doctrine, the Government is committed to ensuring that new burdens falling on local authorities are fully funded. Should further work on any of the options discussed in this paper indicate that they are worth pursuing, but will place new burdens on local authorities, the Government will assess the nature of those burdens and ensure that they are fully funded.

Consultation questions

- 1** Where should we focus future work on implementation of the Command Paper's principles (of no disadvantage and special treatment where appropriate)? At the central UK Government and Devolved Administration level, or at the local level? How do we strike a balance between the two?
- 2** Having reviewed the various options discussed in this paper, are there others which should be given consideration?

Chapter 2: Consistent and Enduring Support

2.1 The ideas discussed in this chapter address the question of how we might make the core principles consistent and enduring. They are designed to ensure that the needs of the Armed Forces community are taken into account at the outset in the planning, commissioning and delivery of public services, so as to prevent the Armed Forces community suffering disadvantage and to enable special treatment where appropriate.

2.2 For the purposes of this paper we use the term Armed Forces community to include:

- Service Personnel – individuals currently serving as members of HM Armed Forces, including the UK Reserve Forces;
- Families – the immediate family of members, or former members of the Armed Forces; and
- Veterans – former members of HM Armed Forces.

Legal duty on Government to conduct Five-year review

2.3 The requirements under the Command Paper to publish an annual report and to review progress after five years could potentially be made legally binding. This would require primary legislation, and would demonstrate the determination to carry through the initiative. Such an approach has similarities to that used for

the NHS Constitution in England. The Health Bill currently proceeding through the UK Parliament lays down that the NHS Constitution should be reviewed (in terms of its content) every 10 years. It also contains provisions to ensure that any review is carried out in consultation with patients, staff, the public and those bodies which have a duty under the Constitution; and that a report on how the Constitution has affected patients, staff and members of the public is published every three years.

2.4 Applying this kind of approach to the Command Paper would ensure that the initiative remains in the public eye, and would give extra impetus to the commitments made last year. However it also carries the risk of putting the main focus on the specific undertakings made on that occasion. Over time those commitments may become less relevant, in contrast to the underlying, enduring principles.

Consultation questions

- 3** Is there benefit in legislating to ensure the UK Government publishes an annual report on the implementation of the Command Paper principles?

- 4 Is there benefit in legislating to ensure the UK Government reviews implementation of the Command Paper formally every five years?

Legal Duty on Public Bodies

2.5 The Government has already demonstrated its readiness to use legislation to address specific issues of disadvantage to the Armed Forces community, where necessary and appropriate. Legislation could also play a more general role, for example by creating a duty on public bodies to consider the needs of the Armed Forces community. This would be a new departure in terms of tackling the issue of disadvantage. Much work would be required to clarify how such a duty might be expressed, how widely it might apply, how public bodies should build it into their way of doing business, any associated costs, and indeed whether there would be practical obstacles which prevented it achieving the desired effect. This consultation provides a first opportunity to debate these issues, and establish whether a fuller examination is desirable.

2.6 A duty to take into account the needs of the community in general is not new. There is already a statutory duty on local authorities in England to consult the community when making decisions about priorities for the area, and the NHS Operating Framework in England also stresses the importance of engagement with the local community. However, such arrangements are not universal and do not exist in all sectors. Existing arrangements could potentially be strengthened by placing a new duty on public bodies to ensure that decisions take account of the disadvantages arising from Service life. The needs of the Armed Forces community would then be fully considered before decisions were made at a departmental, regional or local level.

2.7 There are two levels at which such a duty might be introduced. If we want it to impact on the strategic decision-

making level, then it might be appropriate to apply it to those bodies who have strategic responsibilities such as setting outcomes and targets in the planning and commissioning of services at a national, regional and local level.

2.8 The structures carrying strategic responsibilities vary across England, Scotland, Wales and Northern Ireland. For England, the list of relevant bodies might be as follows:

- A Minister of the Crown;
- UK Government departments;
- Local authorities;
- Strategic Health Authorities and Primary Care Trusts;
- Regional Development Agencies.

A duty of this nature would allow the delivery of front line public service to be influenced without applying the duty directly to those bodies responsible for the provision of services.

2.9 While defence is a reserved matter, the delivery of many public services is devolved to the administrations in Scotland, Wales and Northern Ireland. Should we seek to pursue any legislative proposals, we will work with the Devolved Administrations over whether and how legislation might apply. It would be for Scottish Ministers, the Welsh Assembly Government and the Northern Ireland Executive, and their respective parliaments/assemblies to consider whether they wished to apply an equivalent duty to their public bodies in line with their competences.

2.10 The second level relates to where individual decisions are made on the delivery of services. The duty might be applied to a range of organisations from local offices of Government departments to individual schools, partners of local authorities and other service providers, involved in either the preparation of community strategies, or the delivery of services themselves. With this approach the number of delivery agencies which would be subject to the duty, and the number of decisions they take, would

be very large. That in turn would raise a number of practical issues, and run the risk of adding disproportionate burdens to those responsible for delivery. Such factors could weigh heavily against this second level of application of the duty, especially if an alternative, less burdensome means of obtaining the same result were identified.

- 2.11** As indicated above, further work would be required in order to formulate detailed proposals for a new duty of this kind. However, it is possible to identify some of the questions which would arise.
- 2.12** What practical effect would we expect the duty to have? If the primary objective were to achieve an impact on the ground, the emphasis of the duty would need to be on closing gaps in outcomes. Public bodies would be expected, in carrying out existing processes and functions in the future, to identify and address the disadvantages faced by the Armed Forces community as they deem appropriate. In some cases, it will not be easy to identify members of that community. Ensuring, for example, that an action designed to help veterans was implemented in a way which benefited all veterans in a local area, would be difficult without better information about that population than is available today.
- 2.13** Another important consideration would be the form of the duty. It might not require a public body to take any specific actions, but instead oblige them to ‘take regard’ of the need to eliminate disadvantage for the Armed Forces community, and to give special treatment where appropriate. It need not require that public bodies addressed disadvantage at all times and at all cost. That would not be reasonable in view of the finite nature of resources and policy levers available, and other duties that might have to be given higher priority than the need to support the Armed Forces community. On this basis, public bodies should require no additional resources to meet the duty. They would retain the flexibility to determine how best to act in the context of their overall functions, priorities and resources. Having taken due regard, they would be accountable

for the outcomes. It is envisaged that no separate reporting requirements would be specified, but public bodies would be expected to incorporate monitoring and reporting against the duty into existing practices and mechanisms.

- 2.14** Guidance could be provided to public bodies to improve their knowledge of the nature of Service life and the potential disadvantages arising from it. This would help them understand how they are to meet the duty, for example by addressing:
- how to identify areas where Service life would have a detrimental impact on members of the Armed Forces community;
 - what steps a body would need to take to identify the outcomes relevant to their functions;
 - what differences in outcomes would indicate a disadvantage that needed to be addressed;
 - how their decision-making processes would be affected by the duty;
 - what compliance looked like; and
 - examples of good practice.
- 2.15** It would be important to ensure that a future duty did not, as an unexpected consequence, cut across any existing policy or administrative arrangements, designed to address specific problems experienced by the Armed Forces community, as described in the Command Paper. It should support these arrangements and promote good practice, increasing both the number of bodies which take account of the Armed Forces community in their business, and the degree to which they do so. Nor should the duty cut across existing statutory duties. If this appeared to be the case, public bodies would be required to weigh up the different factors and come to a reasoned decision based on all the relevant circumstances, as is current practice.
- 2.16** In terms of enforcement of the duty, public bodies would have to show that they had taken the needs of the Armed Forces community into account in reaching a particular decision. A public body would be in breach of the duty

if it did not consider the possibility of causing disadvantage to the Armed Forces community in exercising its functions. For example, Provider A might set a residency requirement for a service, which Service families might not be able to meet because of the frequency of postings. The Provider would need to show that it had weighed up the implications for Service families, before taking its decision.

- 2.17** Under this model, a breach of the duty would not give rise to any private law remedy – the only route for recourse would be judicial review. It would therefore minimise the risk of unmeritorious or frivolous legal challenge by individuals or organisations who are simply unhappy with the decisions taken by a particular public body. Additionally, administrative routes for recourse, such as use of Ombudsmen, helplines and local networks of Advocates, could be introduced. Proposals for these options are discussed in more detail in the ‘Routes for Recourse’ chapter.

Consultation questions

- 5** Do you believe a new duty on public bodies would help to deliver consistent and enduring support for the Armed Forces community? Why? What practical problems might arise?
- 6** Should such a duty relate to Service personnel, families and veterans? Is there anyone else who should be included?
- 7** Do you believe that the duty should apply to public bodies at a strategic decision-making level or to individual decisions on the delivery of services?
- 8** Is the list of national, regional and local public authorities to which this duty might apply correct? If not, who else should it cover and why? How can account be taken of services which are delivered by partnerships rather than single bodies?

- 9** Should public bodies have flexibility to define what constitutes ‘disadvantage’ or ‘special treatment’, and how these should be identified, measured and monitored for their area of business, rather than prescribing this in legislation? Would obtaining the necessary data have cost implications for them?
- 10** Are there policies you are seeking to implement, or programmes in which you are engaged, which might be impaired by such a duty? Please explain what they are and how they could be protected.

A Charter for the Armed Forces community

- 2.18** Establishing duties on public bodies is not the only potential route to the consistent and enduring treatment of the Armed Forces community. A quite different approach would be to look at the problem from the perspective of the individual member of that community. This too, could take a number of forms.

- 2.19** One might be to enshrine individual and specific rights of the Armed Forces community in law. This would have the advantage of setting out clearly and in one place their specific entitlements to public services, such as healthcare and education. On the other hand, the issues which are under consideration here are in the nature of economic and social rights, rather than civil and political rights as set out in, for example, the Human Rights Act. The traditional approach of the UK has been to deliver socio-economic rights through policy rather than legislation. This direction has been taken because socio-economic rights are based on positive provision by the state and can therefore have significant resource implications. Additionally, steps to legally enforce the specific rights of the Armed Forces community are likely to be controversial, as they might be seen to make the Armed Forces community a ‘protected group’ in

a similar way to those groups protected by anti-discrimination legislation. Specific rights in law for the Armed Forces community may therefore prove both difficult to achieve and inappropriate.

2.20 An alternative way of ensuring permanence of the principles in the Command Paper would be through the creation of an Armed Forces Community Charter. A short, perhaps one to two page charter could be created that sets out the high level principles. It could cover each of the three areas of the community separately – current Service personnel, families, and veterans – or one charter could cover the whole community.

2.21 The Charter could establish the essential starting point that those who serve must not be disadvantaged by virtue of what they do, and that this will sometimes call for special treatment. This would commit all bodies acting in accordance with the Charter to certain actions in relation to the Armed Forces community such as:

- A body will actively consider, when making policy or delivering services, whether their actions will leave members of the Armed Forces community at a disadvantage;
- A body will work to ensure they have as much lifestyle choice as any other citizens;
- A body will work to ensure continuity of service delivery to those who are required to adopt a mobile lifestyle; and
- A body will consider proper return for sacrifice, that is special treatment for those that have given the most.

2.22 The Charter could also set out a number of responsibilities which fall to members of the Armed Forces community themselves, including:

- You should identify yourselves as a Service Person, Service Family or Service Veteran to public bodies trying to assist you;
- You should make reasonable efforts to find out what services and treatments you are entitled to; and
- You should report any problems you encounter, in relation to inequality in service.

2.23 High level principles may not provide sufficient clarity for a specific service provider. Organisations committed to the Charter might be expected to produce their own version, tailored to the particular service that they provide to the Armed Forces community. For a healthcare provider, for example, the nature of a commitment to provide continuity of service to mobile Service personnel would look very different to that of an education provider. On the other hand, templates could be drawn up to avoid each healthcare or education provider having to start from a clean sheet of paper.

2.24 Were a Charter created, there are four distinct ways this could be ‘enforced’:

- (a) Government departments and the Devolved Administrations could agree to support it in development of their own policy;
- (b) It could be rolled out to delivery organisations at all levels on a voluntary basis (for example following the model of the Supporting Britain’s Reservists and Employers (SaBRE) statement);
- (c) It could be rolled out in a similar fashion to Investors in People, i.e. organisations accept a requirement to demonstrate they fulfil the requirements of the Charter; or
- (d) Finally, it might be made legally binding for public bodies to take account of the Charter, and the principles contained within it, in the decisions they make.

2.25 Option (d) would be the most complex to deliver, but potentially have the most significant impact. This approach to a Charter is closest to the ‘legal duty on public bodies’ discussed above, and might be applied to the same list of bodies. However, the flexibility inherent in a non-legislative route could encourage a much wider range of organisations to consider signing up to the Charter.

Consultation questions

- 11 Do you agree with the view expressed above (paragraph 2.19) concerning the creation of specific rights in law for the Armed Forces community?
- 12 Do you believe there is merit in creating an Armed Forces Community Charter? Should it cover each of the three areas of the community separately – current Service personnel, families, and veterans – or should one charter cover the whole community?
- 13 Do you believe that the Charter should focus on high level principles? What else would you include – e.g. specific commitments, responsibilities, expectations?
- 14 Which of the four ways to ‘enforce’ the Charter (paragraph 2.24 (a) – (d)) would you consider to be most effective?
- 15 If option 2.24 (d) were followed – the legislative route – would it apply to the same organisations as the ‘legal duty on public bodies’? If not, which others should be included?
- 16 If a non-legislative route is to be followed, which bodies should be encouraged to adopt a Charter?

Customer Service Excellence – The Government Standard

- 2.26 Another way of ensuring that public bodies adopt the principles set out in the Command Paper could be to utilise the Cabinet Office sponsored scheme ‘Customer Service Excellence – The Government Standard’¹.

¹ Information on Customer Service Excellence is available at <http://www.cse.cabinetoffice.gov.uk/homeCSE.do>.

- 2.27 Customer Service Excellence was developed to offer public services a practical tool for driving customer-focused change within their organisation. It is a voluntary scheme, open to organisations across the whole of the UK. The foundation of this tool is the Customer Service Excellence standard, which tests organisations against five criteria:

- Customer Insight.
- The Culture of the Organisation.
- Information and Access.
- Delivery.
- Timeliness and Quality of Service.

- 2.28 This standard has the advantage of having an assessment methodology in place, and assessments are conducted by four independent Certification Bodies that are accredited by the UK Accreditation Service. Customer Service Excellence already targets the same public service providers as those proposed for an Armed Forces Community Charter. Public bodies such as NHS Trusts, Housing Associations and Local Authorities apply to be independently assessed against each of the criteria in order to become accredited. As members of the public, the Armed Forces community are customers of these public services and as such, their views should already be included in any assessment, although they may not currently be identified as a specific group. We could seek to make consideration of the needs and views of the Armed Forces community a more explicit consideration in the assessment procedures.

Consultation questions

- 17 Is there benefit in using the Customer Service Excellence standard to assess how public bodies address the needs and views of the Armed Forces community in delivering public services?
- 18 Would the various approaches outlined in this chapter work well in combination, or would they create either conflict or confusion?

Chapter 3: Route for Recourse

3.1 The ideas considered in the previous chapter, such as the creation of new duties or rights, are designed to ensure that the principles of no disadvantage and special treatment where appropriate are built into the system. They do not enable the Service person, family or veteran to challenge the way in which they have been treated, other than through the courts. Members of the Armed Forces community should have steps open to them, if they do not believe that the core principles are, in practice, being followed by the bodies they are dealing with. This chapter looks at different ways in which that might be achieved.

Ombudsmen

3.2 The public sector Ombudsmen in the UK play an important role in helping to ensure that public services deliver appropriate and good quality outcomes for the users of those services. Where levels of service fall below standard and this has not been satisfactorily addressed by internal complaints procedures, the public sector Ombudsmen provide a route of recourse for the citizen.

3.3 The UK Parliamentary Ombudsman and Local Government Ombudsmen in England investigate complaints from citizens that injustice has been caused by a failure in service or by maladministration on the part of Government departments, local authorities, and certain other public bodies in the provision of their services -

for example, in the provision of benefits. The Health Service Ombudsman in England investigates complaints that a hardship or injustice has been caused by the failure of the National Health Service to provide a service, by a failure in service or by maladministration. There are separate Public Services Ombudsmen covering devolved public services in Scotland, Wales and Northern Ireland.

3.4 All of these public sector Ombudsmen have statutory powers and responsibilities, including in some cases the ability to conduct joint investigations and issue joint reports. They are independent of government and impartial in their dealings with complainants and those complained about. They provide the citizen with a free and accessible means of gaining redress as an alternative to using lawyers and the courts.

3.5 The existing public sector Ombudsman schemes are available to all members of the Armed Forces community. This is quite separate from the role of the Service Complaints Commissioner, charged with overseeing the handling of internal complaints by Service personnel relating to the chain of command. In the context of this paper the relevant question is whether the existing public sector Ombudsman schemes fully meet the particular needs of the Armed Forces community.

3.6 It is established Government policy that a new Ombudsman scheme should only be created when there is a reason for additional adjudication and dispute resolution, and

when it will add value to existing schemes, and not overlap with them.

- 3.7** The public sector Ombudsmen are already able to capture any lessons to be learned from complaints raised by the Armed Forces community and can, if they judge it appropriate, produce reports highlighting any recurrent issues or matters of public interest. However there may be ways in which the existing Ombudsman schemes could be developed to support the Armed Forces community. Key to this would be the readiness of members of that community to identify themselves as such.
- 3.8** Whilst the Ombudsmen are experienced in handling complaints in their areas of responsibility, they attach importance to understanding the environment in which complaints might arise. If they found it helpful, the Ministry of Defence could offer them opportunities to get to know the Armed Forces community better. In addition, should some of the ideas discussed earlier in this paper be pursued, such as an Armed Forces Community Charter, or a legal duty on public bodies to take account of the Armed Forces community, they might be useful additional benchmarks on which the Ombudsmen could draw.

Consultation questions

- 19** What views do you have about existing public sector Ombudsman scheme provision described above (paragraph 3.2 – 3.8), as it applies to the Armed Forces community?
- 20** Are there any developments to those schemes which should be considered?

Local Armed Forces Advocate Networks

- 3.9** There is already an Armed Forces Advocate network operating across Whitehall and the Devolved Administrations at departmental level. The purpose of these Advocates is to identify and resolve policy or legislative issues that may affect Service personnel, their families and veterans. This network could be expanded by encouraging the nomination of supporting advocates at a regional and local level.
- 3.10** With the exception of health, services in England are provided via Local Councils and Unitary Authorities and these bodies have embedded scrutiny processes. Scrutiny processes might be used to assist the Armed Forces community in a variety of ways. For example Scrutiny Committees, composed of backbenchers, can commission investigations into particular aspects of their Council's work, and Councils must respond to their findings. A Scrutiny Committee could be invited to take a particular interest in the Armed Forces community. However either as an addition or an alternative to this, each Local Council / Unitary Authority could be encouraged to nominate an Armed Forces Champion, who would act as the link between those providing local services and the Armed Forces community. The Champion would need to be a Member in the Council's Cabinet or Executive, or an officer. Known problems and issues could be raised with the Armed Forces Champion by the Armed Forces community. It would be necessary to ensure that a Champion had the necessary authority for the role, and that his or her appointment did not cause others to believe that they had no further responsibility to consider the Armed Forces community.
- 3.11** The Champions could also link to the existing higher level Armed Forces Advocates to aid implementation of the central policy at a local level. This approach might improve data capture for development, delivery and evaluation of policy, as Councils are required to maintain statistics on the services they deliver. A

similar system could be developed to cover delivery of local health services. For example, the Strategic Health Authorities in England, which manage the performance of Primary Care Trusts, already have an embedded Armed Forces Advocate at senior level. It would be for the Devolved Administrations to consider their own approach to these issues.

- 3.12** During the consultation period we will work with the Local Government Association and other bodies to address these possibilities. We want to draw on the experience and best practice of councils across the UK in identifying the most promising avenues. This will complement the pilot already in progress, announced in paragraph 4.4 of the Command Paper, to ensure that Service needs are considered as part of local authority planning. The project involves the Ministry of Defence, Communities and Local Government, and the Improvement and Development Agency (IDeA), and is looking at good practice in four localities with high concentrations of Service personnel. It is aimed at encouraging better co-operation between the Armed Forces, Local Strategic Partnerships and the local and regional authorities in the UK, to ensure that the needs of Service personnel and their families are assessed in the local authority planning process and that consultations take place over priorities for the area. It is to be completed by the end of 2009.

Consultation questions

- 21** Is there benefit in creating a network of local advocates to act as champions for the Armed Forces community and to seek to resolve policy or legislative issues that may cause disadvantage?
- 22** Can Scrutiny Committees play a bigger role in supporting this community?
- 23** Can you see any disadvantages, including costs, to this approach?

Single Point of Contact / Hotline

- 3.13** An effective system of recourse requires more than institutions and formal channels. It also requires a means for the community to access those channels; to know what is available to them and how they should set about seeking redress. There are several ways in which this could be delivered.
- 3.14** There is already a plethora of different support services available to the Armed Forces community, offering help and advice on a wide range of issues including how to complain. For example:
- the HIVEs do an excellent job supporting Service families in the community;
 - each single Service runs a community website;
 - Citizens Advice runs a project in conjunction with the Royal British Legion and the RAF Benevolent Fund to support Service personnel and veterans in the community; and
 - the Service Personnel and Veterans Agency (SPVA) offers advice to both serving personnel and veterans, including through a welfare service.
- 3.15** Without eroding these important services, but with the aim of providing a strong central focus which could be heavily publicised as a source of assistance, it would be possible to launch a one-stop-shop telephone line for the Armed Forces community to provide help and advice on how to progress a complaint. As public services are provided by a range of agencies across Government and the Devolved Administrations, this would act as a referral service. We could, for example, supplement the services already provided by SPVA, to equip them to point the caller in the correct direction. The credibility of such a service would rely on its ability to give real help to the caller in taking action to resolve problems – the wider the coverage of issues, the more difficult this becomes. While it would be important to avoid duplication, it is likely that we would

have to accept a degree of overlap with services provided by other organisations. Close co-operation between the various support organisations would be essential to ensure that clear, consistent and authoritative advice could be provided. A further key requirement would be for the service to identify issues which should continue to be pursued through the chain of command, rather than other public bodies.

- 3.16** Internet-based services are not appropriate for all members of the Armed Forces community, but they have an important and growing role to play. A further option we are pursuing is to make better use of DirectGov. As the Government's one-stop-shop for both advice and transactions, it is benefiting from a recent advertising campaign that has resulted in a significant increase in use of the site. It also provides advice and links about public services in the Devolved Administrations. The Ministry of Defence is currently working with the editors to improve the Armed Forces community presence on the site. That could include details of a single point of contact service and routes for recourse.

Consultation questions

- 24** Is there a benefit in creating a single point of contact for the Armed Forces community? Who is best placed to host it?
- 25** Would this service conflict with the services provided by other organisations?
- 26** Do you see a greater role for DirectGov as a portal for providing information to the Armed Forces community on resolving problems?

Welfare Pathway

- 3.17** As an example of a practical proposal that could incorporate some of the options discussed above, the Ministry of Defence is already developing a 'Welfare Pathway' for the Armed Forces community. The Welfare Pathway is not a literal but a conceptual pathway, which provides to all Service personnel, veterans, and their dependants a means of more easily and effectively accessing the help and advice they may need. Figuratively the Pathway will represent the journey to successfully resolving the problem at hand. The intention is to empower the individual by providing the right information and as much direct assistance as is needed to get them to a position where they are able to take responsibility for themselves.
- 3.18** It is envisaged that there will be a variety of methods of access to the Welfare Pathway. In addition to the existing SPVA helpline, other facilities could be used to access this information: on the high street; in GP surgeries; Government departments; websites; and where help and support is provided from within other public service organisations (such as the emergency services). Those providing support will continue to do so but also signpost to other organisations for further advice and information.
- 3.19** In order to ensure that those seeking assistance have access to as much help as possible, representatives of those organisations would be encouraged to ask their clients whether they are members of the Armed Forces community. This would alert front-line staff to the need to signpost people to the additional help that may be available through the Government and Third Sector.
- 3.20** This initiative could successfully incorporate any of the options for recourse outlined in this chapter. Additionally, the options for a new route of recourse might provide a mechanism by which the effectiveness of the services provided through the Welfare Pathway could be

assessed and could contribute to the development of evidence based policy.

Consultation questions

- 27** Can a system for providing co-ordinated advice and information to the Armed Forces community, through a Welfare Pathway, contribute to a system of seeking recourse?
- 28** Can you see any disadvantages, including costs, to this approach?
- 29** Would the various approaches outlined in this chapter work well in combination, or would they create either conflict or confusion?

Annex A: Summary of consultation questions

Chapter 1 – Introduction

- 1 Where should we focus future work on implementation of the Command Paper's principles (of no disadvantage and special treatment where appropriate)? At the central UK Government and Devolved Administration level, or at the local level? How do we strike a balance between the two?
- 2 Having reviewed the various options discussed in this paper, are there others which should be given consideration?

Chapter 2 – Consistent and Enduring Support

- 3 Is there benefit in legislating to ensure the UK Government publishes an annual report on the implementation of the Command Paper principles?
- 4 Is there benefit in legislating to ensure the UK Government reviews implementation of the Command Paper formally every five years?
- 5 Do you believe a new duty on public bodies would help to deliver consistent and enduring support for the Armed Forces community? Why? What practical problems might arise?
- 6 Should such a duty relate to Service personnel, families and veterans? Is there anyone else who should be included?
- 7 Do you believe that the duty should apply to public bodies at a strategic decision-making level or to individual decisions on the delivery of services?
- 8 Is the list of national, regional and local public authorities to which this duty might apply correct? If not, who else should it cover and why? How can account be taken of services which are delivered by partnerships rather than single bodies?
- 9 Should public bodies have flexibility to define what constitutes 'disadvantage' or 'special treatment', and how these should be identified, measured and monitored for their area of business, rather than prescribing this in legislation? Would obtaining the necessary data have cost implications for them?

- 10 Are there policies you are seeking to implement, or programmes in which you are engaged, which might be impaired by such a duty? Please explain what they are and how they could be protected.
- 11 Do you agree with the view expressed above (paragraph 2.19) concerning the creation of specific rights in law for the Armed Forces community?
- 12 Do you believe there is merit in creating an Armed Forces Community Charter? Should it cover each of the three areas of the community separately – current Service personnel, families, and veterans – or should one charter cover the whole community?
- 13 Do you believe that the Charter should focus on high level principles? What else would you include – e.g. specific commitments, responsibilities, expectations?
- 14 Which of the four ways to ‘enforce’ the Charter (paragraph 2.24 (a) – (d)) would you consider to be most effective?
- 15 If option 2.24 (d) were followed – the legislative route – would it apply to the same organisations as the ‘legal duty on public bodies’? If not, which others should be included?
- 16 If a non-legislative route is to be followed, which bodies should be encouraged to adopt a Charter?
- 17 Is there benefit in using the Customer Service Excellence standard to assess how public bodies address the needs and views of the Armed Forces community in delivering public services?
- 18 Would the various approaches outlined in this chapter work well in combination, or would they create either conflict or confusion?

Chapter 3 – Route for Recourse

- 19 What views do you have about existing public sector Ombudsman scheme provision described above (paragraph 3.2 – 3.8), as it applies to the Armed Forces community?
- 20 Are there any developments to those schemes which should be considered?
- 21 Is there benefit in creating a network of local advocates to act as champions for the Armed Forces community and to seek to resolve policy or legislative issues that may cause disadvantage?
- 22 Can Scrutiny Committees play a bigger role in supporting this community?
- 23 Can you see any disadvantages, including costs, to this approach?
- 24 Is there a benefit in creating a single point of contact for the Armed Forces community? Who is best placed to host it?
- 25 Would this service conflict with the services provided by other organisations?
- 26 Do you see a greater role for DirectGov as a portal for providing information to the Armed Forces community on resolving problems?

- 27 Can a system for providing co-ordinated advice and information to the Armed Forces community, through a Welfare Pathway, contribute to a system of seeking recourse?
- 28 Can you see any disadvantages, including costs, to this approach?
- 29 Would the various approaches outlined in this chapter work well in combination, or would they create either conflict or confusion?

Annex B:

The consultation process

The consultation process: next steps

B.1 This consultation will continue until 31 October 2009. Individuals and organisations are invited to submit responses to the consultation questions and provide any further comments on the proposals covered in this document.

B.2 You can respond:

- By e-mail to: DCDSPERS-SEC-SPCPMailbox@mod.uk. Please include 'Consultation Response' in the subject line of your e-mail.

- Online at:
<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/ConsultationsandCommunications/PublicConsultations/TheNationsCommitmentToTheArmedForcesCommunityConsultation.htm>

- By post to:
Service Personnel Command Paper Team
Level 7 Zone J
MOD Main Building
Whitehall
London SW1A 2HB

B.3 Please indicate whether you are replying as an individual or on behalf of an organisation or group of people.

Responses should be submitted by 31 October 2009.

B.4 The Ministry of Defence will bring together what people tell us nationally and locally to produce a formal response to the consultation process. This will be made available before or alongside any further action, and will be placed on the department's consultations web site at <http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/ConsultationsandCommunications/PublicConsultations>

Criteria for consultation

B.5 This consultation follows the UK Government Code of Practice on Consultation. In particular, we aim to:

- Formally consult at a stage when there is scope to influence the policy outcome;
- Consult for at least 12 weeks;
- Be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals;
- Ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach;

- Keep the burden of consultation to a minimum to ensure consultations are effective and obtain consultees' buy-in to the process;
- Analyse responses carefully and give clear feedback to participants following the consultation; and
- Ensure officials running consultations seek guidance in how to run an effective consultation exercise and share what they learn from the experience.

The full text of the code of practice is available at: <http://www.berr.gov.uk/files/file47158.pdf>.

- B.6** If you feel that this consultation does not satisfy these criteria, or if you have any complaints about the process, please contact:

Mr Nick Shaw

MOD Consultation Coordinator
 CLS Leg A
 Level 7 Zone C
 MOD Main Building
 Whitehall
 London SW1A 2HB

or send e-mail to: CLS-LegA@mod.uk

Please do not send consultation responses to this address.

Data Protection Privacy Notice

- B.7** The Ministry of Defence will handle your comments and personal data in accordance with the Data Protection Act 1998 (DPA 98). We will not disclose your personal data to third parties unless required to do so by law, or in accordance with DPA 98. We may make use of your comments within MOD and other Government departments to assist in the formulation of policy. The law allows us to publish the comments received or extracts from them in response to this consultation, including statistics derived from those responses. We will not publish your personal data without first seeking your express written consent to do so. If you would prefer that we do not publish

any extracts from the comments you send to us, or would like them to be treated as confidential, please state this when you respond. It would be helpful if you could explain to us why you regard the information you have provided as confidential. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

- B.8** We are obliged to respond to requests for information under the Freedom of Information Act 2000 (FOIA) and other legislation. If you want the information that you provide to be treated as confidential, please be aware that, under FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. If we receive a request for disclosure of specific information, we will take full account of any request not to disclose information, but we cannot give an absolute assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry of Defence.

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