

4.8.2.3

23 April 2025

Dear Timothy,

Armed Forces Commissioner Bill: Powers of the Commanding Officer

Thank you for your contributions and support for the Armed Forces Commissioner Bill. In a follow up meeting to Grand Committee on Wednesday 2 April we discussed the role of the Head of Establishment of sites and their ability, in extraordinary circumstances, to prevent the Armed Forces Commissioner from entering their site on National Security or safety grounds. I agreed to write to you on this matter.

The Armed Forces Commissioner Bill gives the Commissioner the necessary powers and access to certain Defence sites to enable them to carry out their investigations into matters of general service welfare for those who come under service law and their families. In exercising these powers of entry, the Commissioner must give the Secretary of State notice of intent to visit those sites (for sites in the UK only) unless it is considered that giving notice would defeat the object of exercising the power, for example where the Commissioner is concerned that prior warning may lead to perverse behaviours at the site including the destruction of evidence.

The Secretary of State's power to restrict access is available in a particular case or more generally. We therefore anticipate that in practice, the Secretary of State could provide the Commissioner and Heads of Establishment with information in advance regarding specific sites (or parts of sites), activities, or broader criteria to which they will be preventing or restricting access. In addition to the military, the Secretary of State will consult with the Foreign Secretary and the Home Secretary, to ensure all matters which infringe upon national security interests are assessed.

This mechanism will be broad enough to cover instances where, for example, a specific classified event is happening at a site that did not have any restricted areas. In these instances, should the Commissioner wish to visit without notice, the Head of Establishment will still be able to prevent the Commissioner from entering, either all or part, of the site. Although the Bill provides that this power resides with the Secretary of State, the application of broader criteria provided by the Secretary of State in relation to

The Earl of Minto
House of Lords
London
SW1A 0PW

these matters will also function to allow Heads of Establishment to assess concerns relating to national security or personal safety and restrict access on those grounds. In practice, Heads of Establishment and relevant security staff will therefore have the authority to conduct their own, fact-specific due diligence in line with these concerns, including delaying access while enquires are made. Should disagreements arise, either party would be able to escalate this to the Office of the Secretary of State.

Officials in the implementation team within MOD are working with partners across government to refine the practicalities of this mechanism and will ensure there is robust engagement and communication to make Heads of Establishments aware of their remit and responsibilities with regards to the Commissioner.

I very much look forward to your examination of the bill at Report Stage on 30 April 2025.

I am placing a copy of this letter in the Library of the House.

Yours ever,

A handwritten signature in black ink that reads "Vernon Coaker". The script is cursive and fluid, with the first letters of "Vernon" and "Coaker" being capitalized and prominent.

THE LORD COAKER