



What can I do if I don't meet the Minimum Income Requirement (MIR) through my salary?

1. What other income can I use?

For full details of all non-employment income which is accepted please visit https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901579/appendix-fm-1-7-financial-requirement-v2.0-gov-uk.pdf and scroll to section 6.

2. Can I use savings?

You need to have £16,000 in cash savings to start with. You then need to work out the difference between the income requirement and your current salary, then multiply this by 5 as this is the length of the visa your spouse will receive (see example below). The cash savings must have been held by the applicant, their partner, or both jointly for at least the 6 months prior to the date of application. For further information about using cash savings see the link above.

Example: soldier earns £20,000 and has 1 child. The minimum income requirement is £22,400 so he has an income shortfall of £2,400 per year.

The savings required would be:

$£2,400 \times 5 = £12,000 + £16,000 = £28,000$

3. Why are my Service benefits and allowances not able to be included?

It has long been an argument that soldiers should be able to include their additional non-salaried benefits (such as low-cost housing) within the calculation for meeting the income requirement. To calculate how much extra your salary is worth if you take into account these benefits, visit <https://www.royalnavy.mod.uk/british-army/benefits-calculator>. To date this argument has not been accepted by the Home Office although it is apparently being discussed as part of a wider consideration of the income threshold.

4. Can I bring my spouse to the UK without my children so that he/she can get a job?

Yes, this is an accepted method of overcoming the situation. The joint income can then be combined to meet the MIR for your children. Be aware that there will need to be evidence of the MIR being met for 6 months prior to the application submission. Your children will therefore require a safe place to stay for at least 9-12 months. It is important that the application for your spouse makes it clear that you have children but that you are not bringing them with you. For further information contact the F&C team.

5. Will it help if I bring my children into the UK separately?

No, you need to meet the minimum income for each person you are applying for and each person who already has a limited leave visa. So, if your spouse and one child are already in the UK on limited leave visas, you will need to be earning £24,800 to bring your second child into the UK.

6. Can I get another job in the UK?

This is a possible solution if you seek permission from your CofC. However, if you have any breaks in your additional job due to deployment/exercises, this will affect your total salary for the previous 6 months. So you may have to work for more than 6 months to meet the MIR.

7. Can I use financial support from a third party?

Third party support (essentially financial assistance from a friend or family member) can only be used when it has been proven that there are exceptional circumstances in your case which need to be taken into account. The decision maker will not consider the evidence of third party support if they do not think there are exceptional circumstances, so you would firstly need to prove the exceptional circumstances.

Being a soldier and being separated from your spouse and child(ren) are not usually considered by decision makers to be exceptional circumstances. In most cases your application will be refused but you will then be given a chance to put your case in front of an independent judge at an immigration tribunal, through the appeals process.

8. How do I appeal and does it work?

AFF has assisted two soldiers with their appeals within the previous two years, both have been successful. In both cases the judges decided that separating the serving soldier from his wife and child would lead to 'unjustifiably harsh consequences' and therefore met the exceptional circumstances requirement. In both cases evidence was provided to show that the soldier could meet the income requirement through other credible sources, such as third-party support and prospective earnings of the partner.

Although there is no guarantee that all appeals will be successful, it does appear that when put in front of a judge, the exceptional circumstances argument for applications from families of soldiers is a strong one.

However, if you are going to make an application then you need to fully understand the process and the level of risk:

- The application currently costs £1,523 per person including children (not including associated costs such as the appointment, TB tests etc).
- You will need to provide a lot of supporting documentation to try to prove that the exceptional circumstances are met within the initial application.
- It is still likely however that the application will be refused and you will be given 28 days to appeal.
- You will need to make an online appeal for each refusal within 28 days. Each appeal will cost £140.
- It is likely to be at least a year before you are given a date to attend a hearing to appeal the refusal in front of an independent judge.
- In most cases it will also not be possible to apply for a visit visa for your family during this time as it is likely that the Home Office will not believe that your family are only coming for a visit.
- If the appeal is not successful you will not receive a refund.
- If the appeal is successful it can take a further 6 months for the Home Office to actually issue the visa to your family!

9. What can AFF do to support me with the appeal?

- The AFF F&C Specialist can provide advice on the visa applications for your family, including advice on the supporting documentation and the application process. However, you will be expected to make the application yourself, and to gather and submit the supporting documents.
- She is able to assist with the notice of appeal and statements of additional grounds.
- She is able to talk you through the appeals process and assist with preparing the witness statement and the bundle of documents that will have to be lodged.
- She is not able to officially represent you at an appeal and there is no guarantee that she will be able to attend the tribunal with you.
- If you choose not to engage a solicitor, you will have to be prepared to represent yourself. You will need to fully understand the requirements of the rules and the exceptional circumstances under which you are applying. You will need to understand and remember what supporting documents you have in your evidence bundle, so that you can quickly and accurately respond to the judge's questions. The F&C Specialist can talk you through this.

If you do not meet the MIR to bring your family to the UK and you wish to make an application, please contact the F&C Specialist on fcsupport@aff.org.uk

10. What else is AFF doing?

This issue has been high on AFF's agenda over the past few years and has been raised repeatedly at high level meetings with senior Command, with ministers and with the Prime Minister. AFF has also contributed to a Times article about the issue and has given evidence on the effect of the requirement to the Parliamentary Defence Select Committee.