



army families federation
the voice of the Army community

Briefing

June 2017

The 90-day rule

The current policy that states that a soldier would be ineligible to claim Continuity of Education Allowance (CEA) if their spouse is away from the home for more than 90 days per year is unfair and results in a restriction on spousal employment. AFF would like this policy amended to reflect the Armed Forces Families Strategy to allow spouses the chance to continue employment, training and careers whilst accompanying their soldier.

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Background

Service personnel who wish to claim Continuity of Education Allowance (CEA) must remain married accompanied during their posting. Their spouse or civil partner must not establish a principle residence elsewhere and must not be away from their family home for more than 90 days per year.

AFF has been contacted by spouses who feel they have been restricted unfairly in their employment choices by these regulations. These are not spouses who are establishing a permanent, separate home, but those who may be required to travel due to their type of employment and are staying in hotels, with family or with friends.

Examples of occupations include working for an airline, as a trainer, as a regional manager, for an international company, or with certain types of shift work e.g. in the medical profession. The application of these regulations may result in a career ending policy for these spouses.

It is recognised, and indeed expected by the MOD, that the spouse or civil partner co-ordinates school pick-ups throughout the year amounting to approximately 48 nights for an overseas family - over half the allowance. This illustrates that the policy was not written with employment in mind.

AFF does not support CEA being awarded to those Service personnel whose spouses wish to maintain and live in a separate home of their own for long periods, as we recognise this means that the family is no longer mobile. However, AFF does support those spouses who wish to continue their career whilst maintaining one principle family residence where main utility bills are sent, where the majority of their possessions are kept and where they continue to live with their soldier the majority of the time.

We are seeking an addition to the Joint Service Publication 752 (JSP 752) as an acknowledgement that an extension to the 90 days is a reasonable request for spousal employment and training purposes.

Current policy

Tri-Service regulations in JSP 752¹ state the following regarding accompanied Service and temporary absences.

'ANNEX A TO SECTION 1 OF CHAPTER 1- Guidance on Accompanied Status (Ver 29.0 Jan 17)

5. Temporary Absences of the Service Person's Spouse/Civil Partner.

A spouse/civil partner may also be absent from the family home, either continuously or in aggregated periods, for long periods. Depending on the circumstances, such absences may have an effect on the Service person's accompanied status. In principle, the Service person should be considered to remain accompanied provided that their spouse/civil partner remains resident in the RWA and has not established a principal residence elsewhere. If a Service Person's spouse/civil partner spends 90 or more days away from the RWA, either consecutive or aggregated during a 12 month period, their eligibility of certain expenses and allowances, such as LOA and/or CEA will be reviewed (see Sections 4 to 6 of Chapter 6) and CEA (See Section 1 of Chapter 9). This 90 day period does not include absences where the spouse/civil partner accompany the service person on their authorised annual leave.'

Several other sections are relevant, including guidance on completing the CEA eligibility

¹ www.gov.uk/government/publications/tri-service-regulations-for-expenses-and-allowances-jsp-752

form (annex b to section 1 of chapter 9) and absence of the immediate family for Local Overseas Allowance (06.0427).

Commanding officers use guidance in making the initial judgement on eligibility and the Pay and Allowances Casework & Complaints Cell (PACCC) becomes involved via the unit if there are extraordinary circumstances. What constitutes extraordinary circumstances is unclear to families.

Armed Forces Families Strategy

The Armed Forces Families Strategy's² four principles are fairness, choice, empowerment and resilience. AFF argues that spousal employment sits squarely amongst all four of these principles. The strategy mentions how employment is supported specifically:

'Partner Employment

Evidence suggests that one of the key 'push' factors for Service personnel deciding to leave the Services is the difficulty experienced by their partner in finding employment. In line with our commitment to recruit and retain capable and motivated Service personnel, we will work to ensure partners are able to draw on the appropriate and necessary support (which might include training) to find employment, upskill or become self-employed.'

AFF believes that despite MOD support for spousal employment, it is impossible for certain jobs to continue under the 90 day regulations.

Impact on MOD

There would be minimal cost to the MOD to evaluate the changes needed for this extension in policy and the positives far outweigh the negatives. Enhancing the attractiveness of the overseas package would hopefully result in an increase in volunteers for these postings, and Service personnel based both in the UK and overseas will see the MOD support for the whole family as a huge benefit.

Impact on Army families

AFF finds that employers are bending over backwards to make this work for their employees, but the MOD have inadvertently put up barriers to those who want to continue their career but do not wish to live elsewhere or establish a second permanent residence.

We have also been contacted by families who wish to complete a course for a few months, or who would like to continue where they are working to finish a contract or project, and by those where overnight stays are part of the nature of their job including a Reservist who is married to a Regular serving soldier. All these employment and training opportunities are at risk under the current regulations.

Access to advice

If a Service person is concerned that their spouse or civil partner's employment may affect their eligibility for CEA, they may contact PACCC for guidance via their unit. Spouses have highlighted to AFF that it is impossible for them to speak to PACCC themselves to discuss their work needs - only the Service person or unit can do this and they are not always

² www.gov.uk/government/uploads/system/uploads/attachment_data/file/492121/20160108-UK_Armed_Forces_Families_Strategy_2016.pdf

available for Service reasons, or indeed informed enough of the details to discuss the spouse's employment.

In addition to this, there is no guidance for casework as the current policy dictates that decisions are made on a case-by-case basis. We believe this is unhelpful as it may discourage soldiers from contacting PACCC because it is perceived as a barrier. Guidance listing spousal employment as one of the factors that will be considered will help both the families and the units and could potentially reduce the number of investigations.

AFF VIEW:

AFF recognises that it is the Service person who is eligible for the allowance, but the nature of their spouse or civil partner's employment is a component of this eligibility; they are intrinsically linked. We request that PACCC acknowledges spousal employment as a genuine factor to be considered when families currently request an extension to 90 days and that PACCC are accessible, clear and transparent about this to those involved.