

Briefing

February 2019

*Challenging the Minimum Income Threshold for
Commonwealth soldiers and their families*

The Army Families Federation and the Cobseo Foreign and Commonwealth cluster maintain that UK Armed Forces Service personnel, who have been recruited from Commonwealth countries, should not face years of separation from their partner and children due to their military salary falling below the Minimum Income Threshold (MIT). We call on the Government to exempt serving members of the UK Armed Forces from MIT requirements. An earlier version of this briefing was issued in May 2018.

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Executive summary

The UK recruits soldiers from across the Commonwealth to serve in our Armed Forces. There are currently over 6,000 personnel serving in the UK Armed Forces from foreign and Commonwealth countries, with more being recruited each year to fill technical and specialist roles.

Since December 2013, those who leave their country of origin to serve our nation are subjected to the Government's minimum income requirements if they wish to bring their immediate family with them.

This requirement means that due to military pay scales, a Commonwealth soldier with a spouse and two children can end up waiting up to six years before they earn over the £24,800 needed for their family to join them.

It cannot be right that those who have signed up to defend our nation by serving in the Armed Forces are doing so at the expense of their family life. The current situation can result in personnel making the heart-breaking decision of choosing which child they bring with them to the UK and which they leave behind until their income has increased. The MIT should be removed as a barrier from those who serve in the Armed Forces.

Background

Throughout the twentieth century, the British Armed Forces recruited personnel from Commonwealth nations to support British intervention in major global conflicts. Service personnel from nations that now form part of the Commonwealth contributed to the British war effort during the First and Second World Wars, and in 1961 a campaign was launched to encourage recruitment from Commonwealth nations such as Fiji, coinciding with the end of National Service in the UK. From 1998, a further substantial and ongoing recruitment campaign amongst Commonwealth nations was initiated. This has supported the British Armed Forces by bolstering the numbers of Service personnel, contributing to global campaigns and bringing specialist skills to the Services.

In 2018, the Army employed approximately 7.1% (5,820) of its personnel from foreign and Commonwealth nations. Of these, the majority came from countries in Africa, the Caribbean, and Fiji. They were generally concentrated in the lower ranks.

Although the Army has been the main recipient of Commonwealth recruits, the Royal Navy and Royal Air Force also recruit from Commonwealth countries in lower numbers. The Royal Navy, for example, employs 519 Commonwealth personnel (as at 1 December 2017) and 97.7% are ratings. Of these, 80% of Commonwealth personnel in the Naval Service are from Black, Asian and Minority Ethnic (BAME) backgrounds and in terms of nationality, 38% are Vincentian, 18.7% are Fijian and 13.1% are South African¹

The Minimum Income Threshold and Armed Forces pay

Case study: Private X

Pte X enlisted in 2013 just prior to the new rules coming into effect. He had not had the chance to bring his family to the UK as he had not finished training. He has two children and a wife back home in Ghana and has now been separated from them for six years. He is now earning enough to bring his wife and one of his children over; it will be another two-to-three years before he can bring his other child. He is faced with the agonising decision of choosing which child will join him and his wife in the UK.

*The above case study is a real life example who approached his families federation for support. Name has been changed.

In 2011, the Government announced plans to introduce a new policy on family migration. One of the major changes was to make the level of income threshold ‘higher than that of the safety net of income support.’ Subsequently, the Armed Forces immigration rules introduced on 1 December 2013 closely aligned themselves to the rules for non-military and introduced the requirement for a soldier with one child to be earning at least £22,400 and a further £2,400 for each additional child. It can be many years before a recruit earns the salary needed to meet this threshold.²

The Armed Forces Covenant

In 2011, the Government enshrined the Armed Forces Covenant into statute. Two key principles underpin the Covenant.

- The Armed Forces community should not face disadvantage compared to other citizens in the provision of public and commercial services.
- Special consideration is appropriate in some cases, especially for those who have given most, such as the injured and the bereaved.

AFF and the Cobseo Foreign and Commonwealth cluster group urge the Government to consider the principles of the Covenant with regard to the family needs of Commonwealth personnel. Commonwealth recruits find it very difficult to hold down a second job due to their irregular hours. They also stand alone as a cohort within the Armed Forces who, upon recruitment, are forcibly separated from their immediate dependents, unlike their domestic peers.

The Family Test

In August 2014, the prime minister announced the introduction of a Family Test, to be applied by government departments when devising policy. The guidance and documentation to this test states that, “strong and stable families, in all their forms, play an important role in our society. Families have a major impact on the life chances of individuals and strong family relationships are recognised as an important component of individual, community and national wellbeing”³.

The test sets out a number of questions that government departments should apply when devising policies that risk affecting families. These include assessing what impacts the policy will have on all family members’ ability to play a full role in family life, including with respect to parenting and other caring responsibilities.

Although devised after MIT legislation was introduced, we believe that the Covenant provides for special consideration for this test to be applied in the case of Commonwealth soldiers. If it were to be applied, it is our belief that the policy would fail the test as it enforces separation of spouses and parents from their children, and runs contrary to the previous Chief of Defence People’s own comments in the MOD’s 2016 Families Strategy that, “our personnel can only fully deliver their Defence task if they have the support of their families as well as the confidence that their loved ones will be able to access the right support when required.”

Immigration tribunal success

In September 2017, a soldier whose family had been refused a visa for the UK as a result of the MIT, appealed with the assistance of AFF on the basis of exceptional circumstances. The appeal was successful, the judge said:

“In light of the compassionate circumstances in this case, and particularly noting that the sponsor had a legitimate expectation that he would be able to bring his family to the UK when he signed up to the Armed Forces in 2017, I find that it is not in the public interest to exclude the appellant from the UK based upon the fact that the sponsor has enlisted into the British Army and is serving

² Further information on the Minimum Income Threshold can be found at <https://www.gov.uk/uk-family-visa/proof-income>

³ The Department of Work and Pensions, (2014) The Family Test

this country and the parties will be self-sufficient. If entry clearance is refused to the appellant and her son, the sponsor would be precluded from cohabiting with them until at least 2022. I find this to be totally disproportionate”.

Recommendations

AFF and the Cobseo Foreign and Commonwealth cluster urge the UK Government to amend existing immigration rules on the Minimum Income Threshold to exempt families of serving Armed Forces personnel. We believe this would be in line with the Government’s commitment to recognising the sacrifices and contribution of our Armed Forces via the Armed Forces Covenant and recognising the importance of family life encapsulated in the Family Test.

Commonwealth members of our Armed Forces make up a significant and vital part of the UK’s Defence capability and, as a nation, we ask them to make significant sacrifices to do so. Years of enforced separation from their families should not be one of those sacrifices.

The Cobseo Foreign and Commonwealth cluster group is a forum for members of the Confederation of Service Charities (Cobseo) who provide support, welfare and information to members of the UK Service community who are recruited from overseas including: ABF, The Soldiers’ Charity; The Army Families Federation; Cobseo; The Fijian Support Network; Haig Housing; Help for Heroes; Naval Families Federation; The Royal British Legion; SSAFA; White Ensign. For further information on the cluster, visit www.cobseo.org.uk/clusters/foreign-and-commonwealth/