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Comment: immigration issues should be covered in the Armed Forces Bill

With the [Armed Forces Bill](#) making its way through Parliament, the opposition announced yesterday that it is moving a clause to ensure that service personnel with Commonwealth citizenship should not have to pay £2,389 for indefinite leave to remain following their service.

We would also look to end the currently unacceptable experience of many commonwealth veterans to ensure that when applying for UK citizenship following their service, they will only pay the unit cost of an application for Indefinite Leave to Remain. (8/9)[@Cit4Sol](#) [@SDoughtyMP](#) pic.twitter.com/k2eGL63lXy

— Stephen Morgan MP ([@StephenMorganMP](#)) March 25, 2021

V'nita Templeton has written previously about the issue of [fees for Commonwealth service personnel](#), as well as the [wider immigration issues](#) faced by this community. She also spoke to CJ on the [Free Movement podcast](#) about a group action lodged on behalf of eight Fijian veterans, in which I was instructed as counsel with Anthony Metzger QC. Sadly, when the case was decided last December we were unsuccessful in our latest effort to hold the government to account over its treatment of Commonwealth veterans.

The High Court deemed that our clients were out of time when seeking to have breaches of Army operational guidance at the time of their discharges recognised as unlawful breaches of policy. In addition, since the Armed Forces Covenant does not currently impose any legal duties, the issue of Home Office application fees (and the fact that there is no fee waiver policy for ILR applications) was found to be out of bounds for the court.

Nevertheless, as we have seen with the media coverage of these and other cases, such issues resonate with the public. There does appear to be consensus (outside of government, at least) that non-British soldiers in the armed forces should be able to get ILR — if not British citizenship — as easily as possible. As we know, ILR costs veterans £2,389, plus the same amount again per family member (including children). This is on top of years of often exemplary service involving fighting on the front line, frequently resulting in post-traumatic stress disorder and similar conditions, for very little pay along the way.

Commonwealth soldiers in the armed forces

In their report [Meeting the Needs of Commonwealth Personnel and Families: A Map of Service Provision](#) (May 2018), Dr Catherine Pearson and Dr Nick Caddick highlight that in 2017, the British Army employed 5,800 people from foreign and Commonwealth nations (approximately 7% of its personnel). Of these recruits, the majority are Black, from African and Caribbean countries as well as from Fiji, and are generally concentrated in the lower ranks.

up their long-held global links with such countries by increasing the number of Commonwealth recruits. But what do “long-held global links” actually amount to? Another author, Vron Ware, concluded in her 2012 book *Military Migrants: Fighting for YOUR country* that the “capacity of the British Army to deal with the issues and problems entailed in employing soldiers with migrant status had been extremely limited”. Evidence collected during two years’ research suggested that “army welfare services... were unevenly informed and ill-equipped to deal with the particular issues raised by being a cultural minority as well as a migrant”.

This continues today. Along with the fees issues, other immigration-related problems have surfaced, including refusals of indefinite leave to remain for minor convictions, veterans being placed on the costly ten-year route to ILR, and uncanceled “exempt from immigration control” stamps in passports after discharge (causing confusion as to whether this amounted to permanent residence, which it does not).

The Bill and the Armed Forces Covenant

The Bill would give legal force to the Armed Forces Covenant, which states:

the whole nation has a moral obligation to the members of the Naval Service, the Army and the Royal Air Force, together with their families. They deserve our respect and support, and fair treatment.

Those who serve in the Armed Forces, whether regular or Reserve, those who have served in the past, and their families, should face no 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.



foreign and Commonwealth recruits, service personnel and veterans, that should include their employer — the Ministry of Defence — and the Home Office. That is their gateway to having their rights protected.

The Royal British Legion agrees that the issues experienced by the armed forces community are rarely limited to those coming under local authority responsibility and is also calling for immigration functions to come within scope.

Not only would it be unfair to leave them out of scope, but also deeply hypocritical. Sir John Connell, Chair of the Confederation of Service Charities, recently pointed out that his organisation has been reporting for years on how immigration policies fail Commonwealth veterans — and effectively been ignored by the Home Office. In his view, if there were a legal requirement for the Home Office to comply with, charities like his would have much greater leverage.

How can this country possibly put the Covenant into law and not actually deliver on its “moral obligation” when it comes to foreign and Commonwealth veterans?

This article was co-authored with Vinita Templeton of Duncan Lewis Solicitors.

