

Written Evidence from the RAF Families Federation to the Office of Tax Simplification for their call for evidence of the impact of hybrid and distance working

EXECUTIVE SUMMARY: Although COVID provided a number of opportunities and technology to enable hybrid and distance working, it has left many of the Service community (partners to the service person) with challenging issues, in particular tax for those posted abroad. It is hoped that highlighting these challenges can strengthen the awareness and hope that something can be done to address them. Increasingly partners of Service Personnel expect to be able to retain a career whilst their partner serves, so partner employment concerns are a retention issue for the military and increasingly cited as a reason in why personnel plan to leave the service in the Armed Forces Continuous Attitude Survey.

THE RAF FAMILIES FEDERATION

The RAF Families Federation is funded by the RAF but sits outside the Chain of Command as an independent organisation, parented by the RAF Association. We represent all RAF personnel, be they Regular, Reserve, single, married or in a partnership, together with their families. We are tasked with representing single serving personnel as well as families. We capture evidence of issues and concerns, and report to senior RAF and MOD staffs, and government ministers, proposing changes to improve quality of life for personnel and their families.

RAF FAMILIES FEDERATION EVIDENCE – has been provided by our RAF Community summarising the challenges that they have faced.

The RAF Families Federation has undertaken visits to the USA, Cyprus, Italy and SHAPE (Belgium) this year and on each occasion the complexity of tax for spouses/partners who wish to retain their roles with UK employers, or work for employers within the host countries has been highlighted to us as a growing issue.

As well as issues raised directly to our team during their visits, we have asked our RAF Community to provide us with evidence from their areas of responsibility and individual examples.

The NATO Status of Forces Agreement (SOFA) is a series of agreement that covers personnel and families from other NATO forces in each NATO country where they may work. They are written by country and are not all the same, Some were written in the 1950's and have changed little since. Host Nation employment and tax law in many countries does not reflect modern ways of working leaving many spouses in limbo. Often the NATO SOFA/policy was written at a time when socially it was expected that spouses would accompany the Service Person, and either undertake some minor dependant administrative work or maintain the family home and therefore spousal employment is not covered under the privileges and rights written into the NATO SOFAs. There is no consideration that the spouse of a Service Person might have a separate career. Whilst the UK was a member of the EU, this was not an issue (as there were no Host Nation restrictions placed on an EU national working or residing in another EU state) however, EU-Exit means that this now needs to be reconsidered as it continues to have an impact on our people. We recognise this may not be an OTS issue, however it complicates an already challenging tax situation for this group.

We received the following personal examples that illustrate the lived experience of our RAF Families from Portugal, Italy and a summary from those based in Turkey:

Portugal:

My wife started working from home (our Service Families Accommodation) in 2012 when she was made redundant. She was a self-employed educational consultant, and the work was ideally suited to home/remote working, with an occasional in-person meeting or delivering a presentation to a conference. In 2014 we were posted to the Netherlands and then in 2018 to Portugal, where we are currently. My wife has just retired as of last month. During our time abroad my wife continued

working, as she had in the UK, and continued to pay UK tax and NI (National Insurance). Her income was not reported to the Dutch or Portuguese tax authorities as we understood she remained a UK tax resident (under the terms of the NATO Status of Forces Agreement (SOFA) and relevant Supplementary Agreements, and her work was solely with UK based clients. I believe that having a BFPO (British Forces Post Office) address eased matters on the tax front, as my wife was never questioned as to her tax status by HMRC, and I think this needs to continue. I also believe that as and when any NATO Supplementary Agreements are renewed/updated, then they should reflect that spouses are now able to work remotely, and this activity should explicitly be regarded as a taxation matter for the sending nation, not the host nation, provided that the service provided is delivered to the sending nation.

In my professional capacity, I have seen personnel from other nations suffer due to misunderstandings between their national tax authorities and the ones of the host country, and it is important that HMRC both confirm that UK spouses remote working abroad (but effectively based in the UK) are UK tax residents and therefore subject (solely) to UK taxation, but also that HMRC do not, in any way, communicate to the other country that a spouse (or indeed a serving partner) are resident in that country. In the situation I have seen, the tax authorities in their home country informed the tax authorities in Portugal that both serving members and their spouses were resident in Portugal and the Portuguese tax authorities have been pursuing them for tax in Portugal, even though they have already paid tax in their home country!

Italy:

I am serving in the RAF, currently posted to JFC Naples. My wife works for the NFU as a County Adviser, in what is officially described as a "field based" role. Whilst in the UK she predominantly works from our dining room "office", with one or two face-to-face NFU meetings per month, and has full control of her own diary so can schedule other meetings with farmers, police, MPs etc. as she pleases.

This we thought would fit perfectly with a posting to Naples, as the "working from home" part could be done from here, and she can fly back for her scheduled meetings as required. However, her managers investigated the situation, and were concerned about the potential tax implications to either herself, or the company, from working part of the year in another country. We first notified them back in May, at which point they started to try to find answers and required my wife to submit a formal flexible working request.

Now, in October, their "review date" of the request, by which they hoped to have an answer, has now been pushed back twice from mid-September to mid-November, and we still don't look like we are going to get an answer soon.

To the NFU's credit, they have spent quite a lot of money on hiring specialist lawyers to investigate the issue, but as we have been pushed back twice already, it is not looking like we are going to get an answer soon.

I have been in post now for two months, part of which I have had to spend alone here, and my wife has had to spend alone in the UK, as they have not formally accepted her request, or sorted the issue around tax. This is obviously detrimental to the welfare of both me and my wife and cannot be healthily sustained long-term.

As the only stumbling block is the potential tax implications, if these were fully covered under the SOFA or there was clear advice from HMRC, there would be a solution to our situation.

Turkey:

Of the 33 UK personnel working for the Allied Land Command HQ in Izmir, there are three spouses who currently work for, or have tried to continue working for, UK organisations while residing in Turkey with their partner and all three have had different experiences.

Tax: Confusion over responsibility of ensuring tax compliance. One employer believe it was their responsibility to ensure that their employee, an accompanying spouse, would be fully tax compliant whilst remote working from Izmir. Since they felt that they could not guarantee compliance they terminated their contract with the spouse. The spouse then had to prove that they were responsible for their own taxes and would be compliant; after several months of discussion, the contract was reinstated.

Tax: Overall, there appears to be some confusion between tax status of UK dependents working in deployed locations. This is have prevented some spouses from attempting to continue employment during the deployed period.

Distance Working Recommendations - Turkey

Overall, spouses felt there was a lack of information available on remote working while accompanying an SP (Service Personnel) to Turkey. Had more information been available regarding the SOFA and Turkish/UK dual tax agreements, it is likely more partners would have sought to continue working. It is recommended that more guidance is provided early in the posting process (or earlier) to assist both employers and employees in understanding the particularities of being posted abroad as a spouse of a serving member, including the differences between direct UK postings, postings with alliances, loan service or others. Where they exist, success stories should be made known. Wider conversations with peers and spouses have made it clear that couples will not seek a posting abroad due to real or perceived issues with the non-serving partner retaining their employment. We should seek to update the relevant SOFA to reflect the fact that most families include two working adults.

Summary for OTS :

There is a need for greater clarity as to what the tax implications are for the spouses and partners of serving personnel when working overseas. We acknowledge that there are different rules in different countries, but as dependants of UK service personnel we would hope that there can be a solution agreed by our Government officials, with clearer information offered to both spouses, and where relevant, their UK employers. This is affecting our personnel as well as their partners, and, in some cases, it is a deselection tool for the service person to not take the role. The Support to Partner workstream of the [UK Armed Forces Families Strategy](#) aims to ensure that the partners can maintain a career commensurate with their skills and experience - the current tax rules for those working overseas are making it almost impossible to achieve in some cases.

Hybrid working has not always been achievable for the spouses of service personnel and following the shift that occurred during COVID 19, this community should be able to take advantage of the new ways of working that are on offer. The RAF Families Federation is grateful for the opportunity to submit this evidence.

24 October 2022