

From: Giles Lever, Iraq Group
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cc: PS/Lord Malloch-Brown
PS/PUS
Mark Lyall Grant
Keith Luck
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To: Frank Baker [discussed and agreed in draft. I agree that we need to
PS/Dr Howells) in early conclusion. FB]
PS/Foreign Secretary) parallel

SUBJECT: IRAQ: LE STAFF: MINISTERIAL MEETING, 3 OCTOBER

1. The Foreign Secretary will chair a further interdepartmental Ministerial meeting on assistance to Iraqi LE staff, at 0815 on Wednesday 3 October. Dr Howells will hold the FCO brief. The Secretaries of State for Defence and International Development, the Chancellor of the Exchequer, the Home Office Minister for Immigration and the Attorney General will also attend. Attendance by officials is restricted to one per Minister: Stephen Hickey and I will accompany the Foreign Secretary and Dr Howells.
2. The first section of the attached paper – mostly written by Iraq Group, with input from OGDs – sets out the key recommendations and issues for discussion by Ministers. I also attach a Chairman's brief prepared by Cabinet Office (for the Foreign Secretary only); and the record of the meeting which the Foreign Secretary chaired on 18 September. This steering minute sets out FCO's key Departmental interests.
3. Although media and parliamentary interest in this issue has focussed mainly on the plight of local employees of UK forces, serving and former FCO LE staff have also been subjected to intimidation and attack. FCO employs around 30 LE staff on letters of appointment in Baghdad and Erbil. Since summer 2006, when an attack on an LE couple left the husband dead and the wife seriously injured, we have released all of our directly-employed staff (ie on FCO letters of appointment) in Basra, but there are still around 15-

20 LE staff working for the UK-led PRT and our civilian police team. In recent months, several Consulate General and PRT staff – and their family members - have been attacked in their homes or temporarily abducted. In addition, we have received appeals for help from more than ten former LEs, who claim that they continue to face threats as a result of their association with us.

General principles, legal basis and forms of assistance

4. The first set of issues for Ministers to consider concerns the general principles underlying any scheme. There is general agreement among interested Departments on the principles set out in para 2, and **Dr Howells may wish to endorse these**. Discussion at the meeting is likely to focus on the following points.
5. Presentation and legal basis: whether any scheme should be presented as, in effect, a reward to staff for their service in difficult conditions, or as a response to a known threat to staff. Home Office favour the former. They believe this will minimise the risk of other Iraqis claiming asylum (or challenging asylum refusal decisions) on the grounds that they face similar levels of threat. We recognise these concerns but believe that the latter option is preferable in policy terms. **Dr Howells might say that:**
 - agree that we should make clear that any assistance is ex gratia and not indicative of a legal duty of care;
 - but the reality is that we want to help our staff in Iraq because many face a serious and often lasting threat to their lives as a result of working for us, and we feel a degree of moral responsibility as a result;
 - in practice, it is likely to prove difficult to maintain the legal fiction that we were rewarding service rather than responding to a well-known threat;
 - this approach would effectively stop us from making any reference to risk or threat in our decisions. Although we agree that eligibility for any scheme should be determined first and foremost by objective criteria, we may need occasionally to make assessments of the threat to a particular individual. A “reward for service” approach would also have other risks. It would make it more rather than less likely that we would face similar claims from LE staff in other countries.
6. Forms of assistance: all Departments agree in principle that we should offer resettlement in the UK to limited numbers of staff. Home Office insist that this should be only done via the Gateway refugee resettlement programme, in order to minimise the risks to wider immigration/asylum policy. FCO, DFID and MoD strongly favour some form of resettlement direct from Iraq, at least for serving staff. The Foreign Secretary has said that both methods should be used. **Dr Howells might say that:**

- using Gateway alone runs a strong risk of appearing insufficiently generous and humane. It will be difficult to justify a system under which we ask our staff to relocate for several months to Jordan, when the US and Denmark have allowed resettlement direct from Iraq. The limited number of places available under Gateway (around 50-80 in 2008) would exacerbate this risk;
 - offering serving staff the option of resettlement direct from Iraq, should they need it, would minimise the risk of an exodus of serving staff once a scheme is announced. Staff would be able to apply as a form of insurance; under Gateway, they would have no choice but to resign and leave Iraq before becoming eligible for admission to the UK;
 - it would also give us another option in the event that we find it difficult to secure Jordanian agreement to the use of Gateway for former staff;
 - we would be happy to work with Home Office/BIA to ensure that pre-admission screening procedures for any former staff admitted direct from Iraq were as robust as possible.
7. Other forms of assistance: resettlement in third countries is looking increasingly unlikely as an option. If other Departments raise this, **Dr Howells might say that**:
- we are willing to continue to pursue the possibility with the few regional governments whom have not already said no, or whom it is clearly not worth asking;
 - but there is no prospect of an agreement in time for the Prime Minister's statement;
 - if we offer financial assistance as an alternative to resettlement in the UK, we should present this as a form of practical support for relocation, either within Iraq or elsewhere.

Serving staff

8. **Dr Howells might endorse the proposals at para 5 of the paper.** The most controversial aspect of these is the proposal to control uptake of a scheme for serving staff by limiting assistance to those who are made redundant, or who we judge have been forced to resign because of acute threats. This is likely to result in some difficult decisions about whether individuals' claims are legitimate, and may also be compared unfavourably with US policy (the US has not imposed any such restriction in respect of its own SIV programme). MoD are strongly in favour, however, because of concerns about the impact which a sudden churn of LE staff would have on their ability to operate effectively. We judge the risk of an exodus of serving FCO staff, particularly in

Baghdad, to be lower. But if MoD continue to favour this proposal, it is worth supporting them in order to keep them on board on the main issues.

9. The meeting may see further discussion of the criteria for deciding which former staff should be eligible. Employing Departments generally agree on the desirability and defensibility of a 12 month length of service criterion. MoD are strongly opposed to the idea of restricting assistance to professional staff/interpreters; they believe it would be too divisive. **We would also like our few (< 10) manual/blue-collar staff to be eligible for assistance, but we should be prepared to be flexible on this point if that is the price of securing the opportunity of substantial assistance for the majority of our staff. We would not favour a 24 month length of service criterion: it is too blunt an instrument.**

Former staff

10. As the paper notes, a scheme to assist the minority of former staff who find themselves in dire straits is essential to draw the poison from this issue. **Dr Howells might endorse the recommendations on eligibility at para 7, and make the following points:**

- we know of around 10-15 former FCO staff, particularly in the South, who continue to face serious difficulties. Of course the true number may be larger, but it is unlikely to be more than 50;
- it is not feasible to offer assistance to former staff on a purely reactive basis; we need to be clear from the start where the line is drawn;
- the criteria in the paper may attract some criticism for their restrictive nature, but should sweep up most if not all FCO cases of concern while keeping overall numbers manageable;
- agree that we should commit to reviewing them in the light of experience.

Costs

11. Until we have more certainty over the different elements of an assistance package, and the uptake among staff, it is not possible to estimate with any confidence the likely costs of assistance to FCO staff. At most, these might amount to around £5million over the course of this and the next two FYs; the actual cost is likely to be less. The Foreign Secretary has agreed that we should pursue, with MoD and DFID, the question of funding from the reserve for whatever package is agreed. **Dr Howells might make the following points:**

- these costs were not foreseeable when Departmental or Iraq budgets for this year were set;
 - they are very much linked to the cost of "operations" in Iraq - reflecting the fact that civilian deployments in countries such as Iraq and Afghanistan are as challenging and resource-intensive for FCO as military operations are for MoD.
12. If this approach is unsuccessful, Dr Howells might agree to an approach under which employing Departments would reserve the right to revert to HMT once the costs of a scheme became clearer.
13. If it is raised by HMT or Cabinet Office, **Dr Howells should oppose any suggestion that we should seek to recover costs from the Government of Iraq.** This would simply be robbing Peter to pay Paul, and would severely damage our credibility with the GoI and more widely.
14. Finally, **Dr Howells might wish to challenge the Home Office's demand that employing Departments cover the costs (£20,000 per head) of using Gateway to resettle LE staff in the UK.** Home Office have already budgeted for an increase in global Gateway places in 2008 – from 500 to 750, with the possibility of a further increase to 1,000 in 2009. We understand that they were already considering allocating up to 500 places in 2008 to Iraqi refugees. Allocating some of these places to former HMG staff may mean squeezing out Iraqi refugees from other vulnerable groups, or possibly reducing the number of Gateway places available to other nationalities. Nevertheless, it does not represent any additional cost to the Home Office, over and above that for which they had already budgeted. So Home Office's attempt to recover the full costs from employing Departments smacks of opportunism.

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