

From:

IPU

Date: 30 June 2006

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To:	Dominic Asquith (seen in draft)	
	PS / PUS	

IRAQ: REVIEW OF SECURITY

1. The PUS' minute of 12 June (not to all), recorded his instruction for a rapid review of security of staff and missions in Iraq. This was to look at the context for our operations in Iraq; our broad approach to the risks faced; the structures and procedures to manage the risk; the extent to which these are being observed in practice; and whether these satisfy our legal obligations towards our staff.
2. I submit a note on the review, together with explanatory annexes. The review was chaired by IPU with the input of key departments, in particular SMD, Legal Advisers, CTPD, CIG and HRD. DFID also participated and will submit this piece of work to their Ministers separately.
3. The review concluded that the steps we have taken to manage the risks to those staff to which we owe a duty of care, could be used as evidence of a reasonable standard of conduct by the FCO, but that we needed to:
 - Improve the pre-deployment procedures for staff from certain OGDs to Iraq. They should be made aware of the strict arrangements for our own staff and encouraged to institute similar pre-deployment procedures for their own.
 - Clarify with MOD, the arrangements for evacuation of third country nationals (principally our Gurkha guards) employed either by us or by our contractors.
 - Clarify the status of UK CIVPOL when working for the FCO. It remains unclear whether they are our employees or remain employees of their constabularies.

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4. The review also identified the need for action on the following areas and I recommend that:
- Subject to IPU/Post review, we may require the Board to review two papers on our operations in Iraq. One will focus on the "Impact of Iraqiisation on the International Zone in Baghdad on BE Baghdad". The other on "The impact of UK military withdrawal from Southern Iraq on UK civilian operations". These events will affect our ability to operate. We should review that potential impact early on, the consequences for our operations and whether additional security measures may be required in order to operate.
 - HMA Designate Baghdad conducts a thorough review of staffing levels in Iraq, within a month of his August arrival. This should be similar to the staff audit conducted in April this year, but also look at the ability of staff to deliver on the ground.
 - Iraq be a scenario for the 8 September Senior Management Contingency Planning Exercise. The PUS Designate has agreed in principle to attend what will be an opportunity to test our UK contingency plans for coping with an emergency in Iraq. We recommend as many Board Members attend as possible.
5. SMD, HRD, Legal Advisers, CTPD and CIG agree.

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BCG Basra
BEO Kirkuk

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REVIEW OF SECURITY OF STAFF AND MISSIONS IN IRAQ

Context of Operations

1. Iraq is the Prime Minister's highest foreign policy priority. We have significant stakes in the emergence of a reasonably stable, prosperous and democratic state that no longer poses a threat to the region and world. Iraq Directorate's objectives contribute towards implementation of FCO Strategic Priorities 1, 2, 3, 5, 6 and 8. In turn, these contribute to meeting the following of the FCO's Public Service Agreement Targets 2 (Terrorism); 3 (Conflict Resolution); 7 (Islam) and 8 (Sustainable Development, Good Governance and Energy Security).
2. The UK commitment to Iraq is substantial. Over 7000 troops with lead responsibility for security in Basra and three adjoining provinces (one of which we will be handed over shortly). Missions in Baghdad, Basra and Kirkuk (a total of 41 FCO staff plus OGDs and international institutions) are working across the board on politics, reconstruction and capacity building of Government Ministries and security forces. The next six months will be critical in shaping the environment: stabilisation, reconciliation, the International Compact, military transition, institution building and Rule of Law activity are key activities to deliver on.
3. All of this takes place against the backdrop of a fragile political process and a complex security situation. The violence has multiple roots: the Sunni Arab insurgency, centred on the Sunni areas of central and western Iraq, directed against the Coalition and Iraqi Government; Al-Qaeda linked terrorism, directed at the same targets but also seeking to stir sectarian violence; and sectarian violence itself, which has dramatically increased in recent months. Heavily armed militias and criminal gangs continue to operate throughout Iraq. Annex A lists the number and type of incidents near our missions to date.
4. The risks are considerable. But because of the political importance to the UK of operating in Iraq, the FCO has judged it acceptable to tolerate a higher level of risk there (and in Southern Afghanistan) than elsewhere in the world. In order to work there, this has meant implementation of very tight security measures. However there are two major security plans either launched or about to be launched: one in Baghdad, the other in Basra, both of which may change the security situation for the better.

Our approach to those risks

5. Annex B sets out the definition of our legal obligations. This was prepared by FCO Legal Advisors following consultations with Treasury Solicitors and advice from Counsel as

part of the 2004 Stuart Jack Review of Security. In sum, our approach to those risks flows from our duty of care in law to take reasonable steps to prevent reasonably foreseeable harm to our staff. This applies to FCO employees (UK based and locally engaged) as well as those who visit the premises of our missions and work from there e.g. from OGDs.

6. The PUS has set four conditions for any FCO member of staff to work in Iraq. These are:
 - They must all be volunteers.
 - They must be aware of the security risks.
 - The FCO must do all it reasonably can to reduce the risks they face; and
 - Conditions on the ground must be such that they are able to do their jobs effectively.
7. Annex C sets out the risks faced by FCO, civilian OGD and contracted personnel in Iraq and the measures taken to mitigate them. Our basic approach is "risk averse". This means that if we judge a situation exists whereby personnel are exposed to greater risk than the mitigating measures in place to deal with that risk, that task will not be undertaken e.g. If a visit to a Baghdad Ministry did not allow the UK personnel security detail (PSD) to accompany UK visiting officials, the visit would not take place. Instead we would invite those whom we wished to meet to the Embassy compound instead.

Structures and Procedures to manage the risk

8. Structures and procedures exist to manage the risk in London, posts and pre-staff deployment.
 - In London: Annex D sets out details of the risk management, which is in line with the Jack Review. On the left are the decision-makers. These are identified as the Foreign Secretary, PUS (and Board) and Director Iraq, supported by Iraq Policy Unit. On the right are the risk advisers. These are the Departments and Directorates who provide advice, primarily to the Iraq Director, when considering decisions or making recommendations to the Board, PUS or Foreign Secretary.
 - In Posts, (Annex D again) the decision-makers are the Heads of Post (HMA Baghdad, CG Basra and Head of Office, Kirkuk). Their advisers on the ground are their Post Security Officers (PSOs), Overseas Security Managers (OSMs) and Post Security Committees (PSCs).

- Pre, during and post-posting procedures. In addition to normal overseas FCO medical clearance and boarding processes for overseas postings, there are 2 additional steps. All potential bidders must complete a pre-posting fitness questionnaire, which is designed to assess the individual's ability to cope with the physical demands of Iraq. Bids cannot be processed until the occupational health doctors confirm the officer's suitability. If successful, all staff must then attend a HET (Hostile Environment Training) Course, which tests their ability to cope under stressful situations they may encounter in Iraq. If the course organisers have concerns about an individual's performance and ability to cope with the extreme conditions in Iraq they will discuss these with us which could lead to the posting being cancelled.
 - During postings, health surveillance in liaison with Frontier Medical, Capita and HRD is carried out on arrival and at quarterly intervals throughout the tour. Three months after completion of tour, the officer has a follow up interview with Capita to assess the impact the posting has had on the individual.
9. Assessment of the risk takes place as follows:
- Daily: Risk assessment of post for all operations in or out of our compounds, taking account of latest information and intelligence. IPU (Operations Unit) and SMD in daily contact with posts on current situation.
 - Weekly: PSC's meet to review conditions and provide advice for Heads of Post and tactical adjustments to risks faced. Records of meetings copied to SMD and IPU with recommendations as necessary.
 - Every six weeks (on average): A London based "Nuts and Bolts" meeting of officials to review measures in place, action taken to follow up security recommendations and agree next steps. This involves SMD, IPU, Estates Groups and other interested Departments as necessary.
 - Every Quarter: Visit to posts by a UK based Overseas Security Advisor. He / She produces an assessment of the security situation on return with recommendations for action. Risk assessment matrix completed (as part of worldwide risk assessment matrix procedures).
 - Incident Response: In response to incidents or fresh intelligence, posts immediately review measures and determine need to draw down staff or increase numbers of armed guards e.g. We have drawn down staff from Basra on 2 occasions since September 2005

in response to rocket attacks on the Basra compound. Posts conducted a staff audit in April 2006 following an indirect fire attack on the Baghdad compound.

- Contingency Plans and Business Continuity Planning. Posts update these regularly taking account of the evolving security situation. This review also enabled officials to update IPU's contingency plan for dealing with a major incident in Iraq and agree it with key stakeholders including CTPD and HRD. A copy is attached at Annex E.

Are these procedures observed?

10. The review confirmed that these procedures are closely observed. There have been no instances where the Head of Post has overruled the security advice of their OSMs. However we did identify areas where further work was needed.
11. Annex F lists FCO, civilian UK OGD and HMG civilian contracted staff in Iraq and the duty of care arrangements for them. In column form, it sets out the number of staff, who the employer is and who provides pre-posting training / medical clearance for them. Through gap analysis, we identified the following:
 - Pre-posting procedures. While pre-posting procedures for FCO staff are rigorously followed, we were unable to confirm this to be the case for pre-posting procedures for other government departments. We have had practical experience of the results of this on a few occasions when individuals whom the FCO would not consider medically fit to serve in Iraq have either arrived at post or their medical problems only identified by our medical teams at post at the final minute.
 - This is important. Although the posting department takes the responsibility for posting the individual to Iraq, if that individual is not properly trained or has a medical condition that the FCO would not allow someone posted to Iraq to have, the individual might increase the risks for FCO and other staff e.g. someone who is clinically obese or suffers from impaired agility might require additional assistance if we had to evacuate in a hurry.
 - The FCO does not have the resources to take on board medical screening and HET training for all Government staff deployed to Iraq. Instead we will write to those Departments and contractors most concerned setting out our procedures and recommend that they either institute something similar or ensure their staff sit the Offshore Operators Association Medical. This is a rigorous medical required for staff working on oilrigs where medical facilities are limited and the environment is physically demanding.

- Status of UK civilian police (CIVPOL) sent to the Iraq. CIG explained that it had still to be resolved whether UK CIVPOL sent to Iraq were employees of the FCO (we cover their full costs, i.e. salary when in Iraq) or remained employees of their respective police constabularies. A decision on this currently rested with HRD and we recommend this be resolved soon.
- Contingency Plans. Our review of plans for Baghdad and Basra has found that both posts have excellent civil contingency and kidnap plans. Baghdad has produced a well thought out plan for contending with an invasion from a potentially small number of insurgents: Basra is currently working on a similar plan. However, neither has a detailed plan for the handling of a 'downed aircraft' with British nationals on board. This is now being rectified. Both posts have plans for the medical evacuation of British and EU nationals by the RAF but none for the Gurkha guards, who provide static security at Baghdad and Basra, and TCNs employed on various contracts by DfID and KBR. Their position is being clarified with MOD
- IPU has also revised the Unit's Major Incident Plan (Annex E) Within the plan is a recommendation that in the event of a major incident in Iraq, the PUS should appoint a Crisis Coordinator, either DG Political, DG CA or DG D&I. The Crisis Coordinator will take the chair in MOBR.

Are we therefore satisfying our legal obligations to staff?

12. Even if a duty of care exists in a particular case, the FCO is liable in law only if it is found to have breached that duty, i.e. to have fallen below the reasonable standard of conduct through negligent acts or omissions. The fact that an attack on a mission or individual has succeeded does not necessarily mean the FCO was at fault or has failed to act reasonably. Whether the FCO is acting reasonably in particular circumstances can only be determined with certainty by a court after the event. But the risk of liability can be minimised by showing:
 - That there is a plan in place which uses the resources for security in a rational and defensible way.
 - That the risks to which we expose staff are commensurate with the value of the work they do.
13. Warnings of the risk, advice and training can be useful in reducing liability but they would not absolve the FCO of liability. The FCO could be held liable if security advice

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had not been followed or measures had not been implemented without good reason or if there had been undue delay. Were we to face a case, the conditions and measures we have taken to manage the risk, set out above, would be factors that we could point to as evidence of a reasonable standard of conduct by the FCO.

Iraq Policy Unit
June 2006

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BAGHDAD: Number of Indirect Fire Attacks NOV 04 – MARCH 06	
Total number of IDF attacks with successful impacts within the British Embassy compound.	4
Details of Impacts within the Baghdad Compound Perimeter	
Date:	Details:
<ul style="list-style-type: none"> November 2004 	2 x rockets landed inside the accommodation compound beside Rotary workers. No casualties. The rockets did not explode, otherwise there would have certainly been several fatalities.
<ul style="list-style-type: none"> 22 February 2006 	1 x 107mm rocket landed inside compound just to the north of DFID Wing 2. No casualties. Fortunately the rocket did not explode because metres away from the point of impact a dozen Royal Scots were playing football on the sports pitch, DFID staff were standing outside their building talking and having a cigarette break, and Rotary workers were in their cabins preparing food. Had the rocket exploded there would have been numerous casualties, possibly fatalities. The rocket was removed by EOD.
<ul style="list-style-type: none"> 23 February 2006 	<p>1 x 107mm rocket hit the roof of Wings 3 and simultaneously 2 x 107mm rockets hit the roof of Wing 4. No casualties. One of the FCO Technicians, Derek Naylor, was working inside Wing 3 in the roof ducts just 1 metre from the point of impact. The rocket did not penetrate the roof but a 1 metre square area of spalding from the ceiling fell down beside him. He was shaken but unhurt.</p> <p>One of the 107mm rockets that hit the roof of Wing 4, the Gurkha cookhouse at that time, made a 1 foot square hole in the ceiling and caused a 1 metre square section of spalding to fall down.</p>

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	<p>2 Gurkha chefs inside the building were shaken but unhurt.</p> <p>Shrapnel from all 3 rockets landed on the 5 a side sports pitch which is located a few metres to the North of Wing 4. No one was on the pitch because movement had been minimised outdoors and the pitch placed out of bounds. This was due to the IDF attack the day before (see above) and a high IDF threat at the time. Had staff been outside at the time of impacts there would have been casualties, possibly fatalities.</p>
<ul style="list-style-type: none"> 16 March 2006 	<p>1 x 122mm rocket exploded on the dirt area to the rear of the compound. No casualties. Extensive shrapnel damage to hescos and the explosion sucked open doors to the accommodation pods (only doors that were on the latch). Had staff been walking nearby at the time of impact there would have certainly been fatalities.</p>
Falling Rounds (Bullets)	
<ul style="list-style-type: none"> Ongoing 	<p>At least once a month a member of staff reports that a round has landed nearby. This is <u>not</u> a sniper shooting at them but due to the amount of rounds flying around in Baghdad (celebratory fire, firefights etc). It is a case of 'whatever goes up must come down'. To date no Embassy staff or employees have been hit but on at least two occasions during the last 6 months, individuals from other organisations have been injured within the IZ. Post are not aware of any fatalities.</p> <p>These incidents are so common that Post do not record dates. But individuals who have had rounds land nearby include: the Australian Ambassador, Howard Brown (May 05); Tom Ring, Deputy Security Manager (twice in Dec 05); Andrew Sneddon,</p>

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	MOD (Jan 06); Les Reynolds, FCO (March 06); Patrick Tobin, FCO (May 06); Dave Braun, FCO Services (May 06); Warren Robe, FCO Services (June 06).
Other Incidents (on/off compound) Jun 05 – Jun 06	
<ul style="list-style-type: none"> • 11 June 2005 • 19 June 2005 • 31 January 2006 • 22 March 2006 • 25 April 2006 • 10 May 2006 	<p>US Humvee jumps roundabout and hits armoured 4x4 carrying 2 CRG members. Both CRG injured with head wounds.</p> <p>One of the Embassy's sniffer dogs indicated on a labourer during entry search. The other sniffer dog confirmed this and the IZ Police were called. Labourer tested positive for explosive residue, was taken away and ultimately jailed.</p> <p>US Humvee gunner fired 3 x rounds of .50 calibre rounds into bonnet and windshield of Canadian Charge d'Affaires' vehicle inside IZ. No casualties.</p> <p>UK police-rented 4x4 stolen from PX car park. Thought to be criminal related. Nothing of value inside.</p> <p>One of the Embassy's LE staff quit due to death threats linked with him working at the Embassy. Not known how he was identified.</p> <p>US Humvee rammed CRG vehicle carrying Canadian Charge d'Affaires inside IZ. No casualties.</p>

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<ul style="list-style-type: none">• 13 June 2006 <p>Baghdad Incidents 28 6 06</p>	<p>Locally engaged member of staff killed by IED in Kirkuk. He was in the wrong place at the wrong time, rather than being targeted directly.</p>
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Basra: Number of Indirect Fire Attacks Jun 05 – Jun 06	
Total number of recorded IDF attacks (including attempted attacks) assessed as targeting the Basra Palace compound.	28
Total number of IDF attacks with successful impacts within the Basra Palace perimeter.	7
Total number of IDF attacks with successful impacts within the British Consulate compound.	3
Details of Impacts within the Basra Palace Perimeter	
Date:	Details:
<ul style="list-style-type: none"> 24 September 2005 	At 0037hrs, an IDF attack took place against Basra Palace. The IPS reported that three rockets (exact number unconfirmed) were fired from the area to the south of the Mustashfa district of Basra). An unconfirmed number of rockets impacted within the perimeter of the Palace. No casualties or damage were sustained.
<ul style="list-style-type: none"> 04 January 2006 	At 2130hrs, an IDF was conducted against BP Compound, with a second attack mounted at 2200hrs. The FPs were investigated by the IPS however with negative results. The number of rockets fired is unknown, however, 2 x blinds impacted within the Palace perimeter; one ricocheted off the British Consulate Swimming Pool Ablution roof and impacted in the ORA Compound, the other impacted within the Romanian Compound.
<ul style="list-style-type: none"> 06 February 2006 	At 2306hrs an IDF attack took place against Basra Palace. 2 x launches were detected, with one impact in the Shatt Al Arab and the second, unconfirmed, impact either on the northern bank of the Shatt Al Arab Waterway, or within the British Military Compound. No strike mark or debris was identified, however, a number of witnesses claim that there was an impact in the compound. Approximately 30 mins after the first salvo, a second salvo of 3 x rockets was launched in the direction of Basra Palace, none impacted inside the perimeter. The IPS located the firing point and discovered a battery pack and wiring in situ.
<ul style="list-style-type: none"> 04 April 2006 	<p>At 1828 hrs 2 x rockets were launched against the Basra Palace Compound. Both impacted in the vicinity of the park just north of the British Consulate compound and the main gate.</p> <p>At 1925 hrs a further 2 x rockets were launched, 1 impacting in the US REO compound and 1 impacting outside the Palace perimeter to the south.</p> <p>At 2020hrs, 3 more rockets were launched against the Palace compound. It is assessed</p>

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	<p>that two of the rockets overshot the target; both impacting in the Shatt Al Arab waterway. The third rocket impacted against the northwestern wall of Building Five within the British consulate compound. It caused structural damage to the external and internal upper wall.</p> <p>At 2044 hrs a single rocket was launched which impacted north of the compound in the area of the park.</p> <p>At 2135 hrs another single rocket was launched, impacting on the northern bank of the Shatt Al Arab. A second rocket was found in situ at the firing point.</p> <p>All of the above attacks occurred during a visit to Basra by the PUS designate.</p>
<ul style="list-style-type: none"> 30 April 2006 	<p>At 2240hrs, an IDF attack was conducted against BP. Approximately five 60mm mortars were launched against the target from a firing point located to the south of the Palace Compound. There were five assessed impacts within the Palace compound; two within the US REO compound, two within the British Military compound and 1 in "Brookside" (within the British Consulate compound). No casualties were sustained and only minor damage was sustained.</p>
<ul style="list-style-type: none"> 07 May 2006 	<p>At 2005hrs, an IDF attack was conducted against Basra Palace. 4 x 107mm rockets (assessed) were launched against the target from a firing point located to the north of the Al Quibla district of Basra. 1 x round impacted on the northern bank of the Shatt Al Arab waterway, three rounds are assessed as landing within the Palace compound (at least one round impacting within the US REO compound) and one round impacted in the As Saraaji district of Basra. No casualties or damage sustained.</p>
<ul style="list-style-type: none"> 15 May 2006 	<p>At 2256 hrs, an IDF attack took place against BP. Reports conflict as to the number of mortar rounds fired. Subsequent analysis indicates that up to 7 rockets may have been fired from the Al Hyyanayah District of Basra, four of which impacted on civilian targets, and four inside the Palace perimeter; one in the British military compound and the remainder in the Romanian and US compounds.</p>
Number of Direct Fire Attacks Jun 05 – Jun 06	
<ul style="list-style-type: none"> 05 Feb 2006 	<p>Ten rounds SAF are reported to have been fired against a sentry at Basra Palace. The guard is reported to have returned three rounds in the direction of the firing point, assessed to have been approximately 1 km north of the palace. Few details are known about this attack. It is possible that the rounds may have been a form of celebratory fire, which takes</p>

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	place on a regular basis in Basra City during ceremonies such as weddings.
<ul style="list-style-type: none">• 3 Jun 2006	<p>At 1443 hrs up to 2 x RPG and possibly a rocket were fired at Basra Palace Compound. One RPG penetrated through outer and inner wall of a concrete watchtower in the US REO compound and exploded in the air some distance beyond. Fragments were found in the British Military compound and identified as RPG. No other impact points were identified but it is alleged that "something" impacted in the Romanian compound. There were no injuries and the only damage was two holes in the tower.</p> <p>At approx 2000 hrs the Basra Palace SE gate (Romanian) and the British Army sangar on the Shaat al Arab came under SAF from two firing points; the tree line 300m to the SE of the gate and from a point to the E/NE across the waterway. The Romanians returned fire the British did not. 2 x rounds (at the limit of their range and without much energy or penetrating force) landed in the British Consulate compound causing no damage. 2 x British Consulate personnel were in the vicinity of the British Army sangar during the attack. They took cover and were collected by CRG unharmed.</p>
Other Incidents Jun 05 – Jun 06	
<ul style="list-style-type: none">• 8 May 2006	<p>At 1012 hrs a blast bomb was rolled under a vehicle that was part of a small convoy of civilian vehicles waiting to enter the Palace on normal business. 3 x vehicles were slightly damaged there were no casualties.</p>

Basra Incidents 29 6 06

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ANNEX B

Duty of Care: the Legal Position

(Prepared by FCO Legal Advisors following consultations with Treasury Solicitors and advice from Counsel)

The FCO has a duty of care in law to take reasonable steps to prevent reasonably foreseeable harm to others. Whether a duty of care exists in particular cases depends on whether the death, injury or damage sustained was foreseeable, whether there was a relationship between the FCO and the claimant viewed by a court as one of "proximity" and whether the court considers it fair, just and reasonable to impose a duty.

With regard to FCO premises abroad, we clearly owe a duty of care to our employees, whether UK-based or locally engaged, who work in the mission. This extends to the accompanying families of UK-based staff. An English court would be unlikely to draw a distinction in principle between UK-based and LE staff under the law of tort (i.e. the law that applies in cases of negligence). LE staff contracts are governed by local law but the courts would not allow liability to LE staff to be avoided by a difference between UK and local employment law.

We also owe a duty of care to those who visit the premises of a mission, although the standard of duty required may be lower than that required for our employees (visitors come out of choice, employees are required to work there). UK-based contractors would likely be regarded as analogous to UK-based employees. There would also be some duty of care to local contractors although the standard of the duty might differ between a permanent contractor and someone who does an occasional job.

We do not owe a duty of care to passers-by who suffer harm as a result of an attack on one of our missions.

Even if a duty of care does exist in a particular case, the FCO is liable in law only if it is found to have breached that duty, i.e. to have fallen below a reasonable standard of conduct through negligent acts or omissions. The fact that an attack on a mission has succeeded does not necessarily mean that the FCO was at fault or has failed to act reasonably.

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Whether the FCO is acting reasonably in particular circumstances can only be determined with certainty by a court after the event. But the risk of liability can be minimised by knowing what resources are available to spend on security and showing that there is a plan in place which prioritises those resources in a rational and defensible way. Decisions made and the reasoning behind them should be recorded contemporaneously so as to carry more weight than records reconstructed after the event. In deciding priorities, it is not necessarily right to pour all the resources into those posts perceived to be at most risk if fairly simple and inexpensive measures could also be taken across the board. Each premises' risk should be examined.

If the FCO had tried to take a necessary measure but had not been able to, for example the local authorities had not cooperated, the onus on the FCO would be to seek another solution. If the risk was very high that might mean to move to different premises.

It is likely that we would need to show that we had taken reasonable measures to meet reasonably foreseeable risks and that the risks to which we exposed staff were commensurate with the value of the work they did (ie higher risks in Iraq were more defensible than in a country with a low DSI score). Private sector companies consulted also interpret this to require them to ensure that staff are aware of the risks before being sent to a dangerous location and otherwise that the employer has a good audit trail. Warnings of the risks, advice and training can be useful in reducing liability but they would not absolve the FCO of liability. The FCO could be held liable if security advice had not been followed or measures had not been implemented without good reason or if there had been undue delay. If an individual member of staff refused to do so on his/her own behalf that could be difficult to sustain in a court: each case would need to be looked at on its merits.

An individual member of staff, for example a Head of Post, could be sued, but in practice it is more likely that redress would be sought against the FCO, on whose behalf the individual would be seen as acting. Although any legal action would most likely be in the English courts it is possible that action could be attempted against us in overseas jurisdictions, where there might also be an issue as to whether we should seek to rely on state immunity from the jurisdiction of local courts.

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FCO: DUTY OF CARE: IRAQ

EMPLOYEES (UK BASED AND LOCALLY ENGAGED)

The FCO has a duty of care in law to take all reasonable steps to protect its employees from reasonably foreseeable injury (physical or psychological). Such a duty would extend to any visiting FCO staff and staff seconded temporarily to the FCO or working directly under FCO supervision and control. It is unlikely that an English court would draw any distinction between UK based staff and LE staff in terms of the existence of such a duty but the question of whether or not the duty of care has been properly discharged will always depend on the circumstances of each case and what measures it is reasonable to expect the employer to have taken.

It is important that such measures are kept under review and that a full and contemporaneous record of the measures taken and the advice given to staff is maintained. Staff must be informed of the risks involved and of any increased threat to their safety. The fact that all staff are volunteers and can be said to have accepted the risks involved may be helpful in reducing the risk of successful legal action but cannot absolve the FCO from liability if it is held to have breached its duty of care in an individual case. You cannot consent to negligence.

OGDs, FOREIGN GOVERNMENTS, INTERNATIONAL ORGANISATIONS

The FCO has a similar duty of care to employees of the above who live and/or work on or visit the relevant mission compounds. In practice, the protection measures taken and security procedures applicable to such personnel whilst on the compounds or carrying out official mission business must be the same as for FCO staff. Inevitably, measures taken in regard to pre-post/ pre-visit training and medical clearance may diverge but in the case of OGDs it is clearly desirable that close coordination occurs and that the same or equivalent measures are adopted.

CONTRACTORS

Again, the FCO has a duty of care to such individuals although the standard of care required may, in particular circumstances, be lower than that required for employees. The FCO does not direct or control the day to day activities of the companies/agencies concerned but it is important that contractors are kept informed of any increased threat to safety. The matter is complicated by the fact that some of the contractors have been engaged specifically by the FCO to advise on and provide security for its staff. Ultimately, it is for the FCO to take the decisions as to the security measures necessary and the best way of protecting the personnel working at the missions in Iraq. However, where the individuals concerned have security expertise of their own, it may not be unreasonable for the FCO to expect them to make their own assessment as to the risks to their own staff (eg while travelling to and from post) and the measures necessary to meet them. The contracts with such firms and agencies need to be carefully vetted

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with these considerations in mind and contractors must have employers' liability insurance.

The attached chart sets out the numbers and categories of personnel in Iraq and indicates whether certain protection measures are currently applied to them or not.

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IRAQ: RESPONSIBILITIES FOR STAFF SECURITY MEASURES

COLUMNS:

- 1 = Category of Staff
- 2 = Numbers of staff in category
- 3 = Employer
- 4 = Overall responsibility when on FCO compounds
- 5 = Medical clearance as FCO requirements (including psychiatric monitoring?)
- 6 = HET/AKE training
- 7 = FCO security briefing pre-posting
- 8 = Included in Emergency evacuation plans

1.	2.	3.	4.	5.	6.	7.	8.
FCO UK	52	FCO	FCO	Capita	AKE Course	Yes	Yes
FCO LE	43	N/A	FCO	No	No	No	No
FCO UK Contractors (Individual)	3	FCO	FCO	No	AKE	Yes	Yes
DfID UK	8	DfID	FCO	DfID	AKE	Yes By DfID	Yes
DfID Contractors	24	DfID	FCO	DfID	AKE	Yes By DfID	Yes
MOD Civ	10	MOD	FCO	MOD	HET MOD	No	Yes
MOD RMP	10	MOD	FCO	MOD	MOD Mil	N/A	Yes
UKTI	1	UKTI	FCO	FCO	AKE	Yes	Yes
HMPS (Secondees)	4	HMPS	FCO	No	AKE	Yes	Yes
Brico	2	B.C.	FCO	No	AKE	Some	Yes
Police Retd.	7	FCO	FCO	No	HET	Yes	Yes
Police (serving)	23	H.O.	FCO	No	AKE	Some	Yes

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Contractors:

1.	2.	3.	4.	5.	6.	7.	8.
Cr. Agents	7	CA	FCO	No	AKE	Yes	Yes
Cr. Ag. LE	12	CA	FCO	No	No	No	No
Armor Gp (Police)	71	AG	FCO	No	No	No	Yes
KBR UK	11	KBR	FCO	No	No	No	Yes
KBR TCN	13	KBR	FCO	No	No	No	No
KBR LE	38	KBR	FCO	No	No	No	No
F.M. UK	4	FM	FCO	No	AKE	Yes	Yes
CRG UK	204	CRG	FCO	No	N/A	N/A	Yes
Kroll UK	1	Kroll	FCO	No	N/A	N/A	Yes
Kroll TCN	198	Kroll	FCO	No	N/A	N/A	No
Armor Gp Police Adv.	71	H.O.	FCO	No	No	No	Yes

Others:

PRT (EU NATS)	15	EU	FCO	No	No	No	Yes
EU JLEX	1	EU	FCO	No	some	Yes	Yes
Canadian	4	Can.	FCO	No	No	No	Yes
Austrian	2	Aust.	FCO	No	Yes	No	Yes

Note: In addition to the FCO compounds at Baghdad and Basra Palace, we have personnel based and visiting at the following locations not under FCO control:

FOB Shield, Baghdad
APOD Basra

Under UK MOD control
Under UK MOD control

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Kirkuk DCG

British Embassy Office based on US Military compound

Shaiba Logistics Base, Basra UK MOD control

Camp Abu Najid (Maysan) UK MOD control

Camp Smitty (Muthanna) UK MOD control

Camp Mitica (Mitica) Controlled by Italian Military

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