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**MINISTERIAL MEETING ON IRAQ
REVIEW OF LOCALLY ENGAGED STAFF**

IRAQ: LOCALLY ENGAGED STAFF

Note by the Secretaries

The attached paper by the Foreign and Commonwealth Office is circulated to the members for consideration at its meeting on Wednesday 03 October. The meeting will be chaired by the Foreign Secretary at 08.15 in Conference Room A, 70 Whitehall.

Signed

**P M ALDRED
C TURNER**

IMPORTANT

It is essential that you confirm your attendance with the Secretariat on 020

Cabinet Office
01 October 2007

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IRAQ: LOCALLY-ENGAGED STAFF

SUMMARY OF RECOMMENDATIONS FOR MINISTERS

1. Issues which Ministers will wish to consider fall into four categories: general principles and legal basis; assistance to serving staff; assistance to former staff; and cost.

General principles, legal basis and forms of assistance

2. We recommend:

- that we should establish discrete schemes to assist sub-sets of a) serving and b) former Iraqi LE staff, instead of the current approach under which different Departments have offered different forms of limited and *ad hoc* assistance to a small number of their staff;
- that schemes for assistance should preserve as far as possible our operational effectiveness, ensuring that we can continue to retain and recruit LE staff in the short term and during any future drawdown
- that objective criteria such as length of service should be the main method for deciding which staff should be eligible for these schemes; and
- that staff who are ineligible under these criteria should not be eligible for extraordinary consideration.

3. Ministers are asked to decide whether assistance should be presented as:

- A one-off ex gratia package of benefits to LE staff on the grounds that they have served in uniquely difficult circumstances in Iraq (i.e a reward for service). Home Office favour this option as it minimises legal risks to broader asylum policy; or
- A response to a known threat to LE staff in Iraq. Employing Departments favour this option as it accords more closely with the reality on the ground

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In either case we would make clear that such assistance was not indicative of a legal duty of care, and was unique to the circumstances of Iraq and confined to HMG's Iraqi LE staff.

4. Ministers are further asked to decide whether the assistance available to serving and former staff should comprise one or more of the following:

- financial assistance, based around a 6 or a 12 months salary package;
- resettlement to third countries. (Ministers are asked to note that there is no immediate prospect of a formal agreement with a third country to take our former staff, but that work continues in this area);
- admission to the UK via a third country, probably Jordan, under the Gateway refugee resettlement programme (this may require intervention with the Jordanian authorities to secure their cooperation);
- admission to the UK direct from Iraq, either by entry clearance in Iraq leading to a grant of asylum in the UK; or exceptional leave to enter the UK. The Home Office are strongly opposed to this option given the risks of encouraging failed Iraqi asylum seekers already in the UK to attempt to re-open their cases.

Serving staff

5. We recommend:

- that for the purposes of a new policy, "serving staff" are defined as those working for us on or after 8 August 2007 (the date when the review was announced);
- that eligibility should be restricted to those staff who have worked for us for more than 12 months. This would make around 280 staff eligible. (Alternative option 1: that we use 24 months instead of 12. This would make around 160 staff eligible. Alternative option 2: that we restrict eligibility to professional staff, including interpreters/translators. This would also make around 160 staff eligible.); and
- that in order to prevent an exodus of eligible serving staff, assistance is offered only to those staff who are made redundant, or who we

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determine have been forced to resign on the grounds of an immediate and acute threat. (Alternative option: that all eligible staff should be able to receive assistance on leaving our employ.)

6. Two models for possible schemes are given at Annex A.

Former staff

7. We recommend:

- the establishment of a separate scheme for a limited number of former staff, although this will entail a degree of uncertainty about numbers of eligible staff, and hence costs;
- that in order to mitigate these risks as far as possible, we restrict eligibility to former staff who were professionals/interpreters; who were in our employ on or after 8 August 2005; and who completed 12 months satisfactory service;
- that Ministers commit to reviewing these criteria after a set period of time.

7. A model for a possible scheme is at Annex A.

Costs

8. Ministers are asked to note that:

- that Gateway places (including for dependents) cost £20,000 per head, and that the cost of using the full allocation of Gateway places in 2008-09, however divided between serving and former staff, will be £6 million. If a similar number of Gateway places is provided in 2009-10 (as employing Departments would recommend), that this will similarly cost £6 million. Any Gateway places allocated to LE staff would be places lost to the originally planned programme and the Home Office would therefore expect employing Departments to cover these costs;
- that, including relocation assistance to those benefiting from Gateway, and financial packages for eligible serving staff who do not benefit from Gateway, the total costs of schemes for serving and former staff based around a combination of Gateway places and financial

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assistance might therefore be around £15 million over the course of this and the next two Financial Years.

- That the costs of options involving resettlement in third countries or direct resettlement from the UK will require further work.
9. HMT officials have noted that Departments would be expected to meet these costs from within existing budgets. Ministers are asked to decide whether this is viable or whether to bid for access from the reserve

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DETAIL

10. At their meeting on 18 September, Ministers agreed that for the purposes of the review, we should divide staff into two categories: serving staff, for whom a forward-looking system should be established; and former staff, for whom there should be a separate mechanism to deal with deserving cases.
11. Some issues, however, are common to both. These include the general nature of the criteria by which we decide which staff should be eligible for assistance; the legal implications of these; and the forms – and extent – of the assistance we offer.

Criteria, and assessment of claims

12. There is no fully satisfactory way of deciding which individuals, or sub-sets of staff, should be eligible for assistance.
13. Risk- or threat-based assessments are extremely difficult to apply in practice. The intent and capability of militias to threaten and attack our LE staff is not in doubt. But conditions on the ground make it largely impossible for us reliably to assess or verify specific threats (or reported threats). In some cases, we may be able to judge whether an individual's claims are real or exaggerated. But there are no criteria by which we could differentiate fairly or consistently between the severity of threats to different members of staff. In addition, any criteria which are explicitly risk-based would – if applied in the context of resettlement to the UK – be likely to invite legal challenge from failed asylum seekers, or those challenging decisions to return them to Iraq.
14. In defence of any such claim we would need to argue that these are a unique group of individuals who face a level of threat beyond that of other Iraqis by virtue of their assistance to the UK i.e. seeking to ring-fence the effects of such an approach. While there is some merit in that argument, there is no guarantee of its success (other Iraqis may seek to argue that the level of threat they face is analogous) and it would potentially complicate our removal efforts.
15. Objective criteria such as length of service and job type allow us to identify sub-sets of staff who would be eligible for assistance. (Statistics on serving staff, broken down by length of service and job type criteria, are at Annex B.) These criteria can to some extent act as

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proxies for risk-based criteria, in that individuals who have worked for us longer and in more visible roles such as interpreters or political officers are more likely to be at risk. But objective criteria are blunt instruments; they are likely to exclude some deserving cases, while allowing claims from some staff who might not necessarily need or require assistance.

16. Legally, it will be important to establish the basis on which we are offering assistance. FCO legal advice is that there are two broad options:

- a) to present any assistance as a one-off ex gratia package of benefits to LE staff serving in uniquely difficult circumstances: a reward for service, rather than a response to a threat. This would be likely to provide some insulation against legal risks for wider asylum/immigration policy, and against claims by LE staff in other countries.

This approach would mean that we were unable to use risk-based criteria or assessments, even as a subordinate component of an approach based on objective criteria. This would make it difficult, for example, to control uptake of an assistance package by serving staff by making case-by-case judgements on whether requests for assistance were based on a real need. It would also require us to maintain the line, both internally and throughout whatever system was established, that the system was intended solely as a reward for LE staff. It is likely that this would be seen as a legal fiction.

- b) to acknowledge that any assistance is being offered in response to a known threat to LE staff, and to accept the legal risks outlined above. This is likely to be preferable in policy terms. It would allow us to retain the option of making threat-based judgements on difficult individual cases. FCO legal advice is that the legal risks could, to an extent, be mitigated by making clear that assistance was offered on an ex gratia basis and was not indicative of a legal duty of care; that it was unique to the circumstances of Iraq; and that it was confined to those who had served there in support of British efforts i.e. is aimed also as a reward for those individuals who have assisted our efforts in Iraq. This should make it much more difficult for those who do not receive assistance to argue that they are entitled to it, or for LE staff elsewhere to seek similar arrangements. It may assist with, but would not remove, the risk to asylum/immigration policy.

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17. In the light of this, officials agree that our approach to defining eligibility should as far as possible be based on objective criteria. Departments are however unable to agree whether it is preferable to present the wider programme as a reward for LE staff (16 a)) or as a response to a known threat (16 b)).

Forms of assistance

18. The three main options for systematic assistance are financial; resettlement in third countries; and resettlement in the UK. Officials have considered other options, such as enhanced measures to guarantee the personal security of serving staff, and re-employment with HMG in third countries. Assistance of this nature may be possible in a very few cases. But we would not be able systematically to help enough staff in this way for these options to form a credible element of a new policy.

Financial assistance

19. A suitably generous package of financial assistance would give staff a good chance of a secure and stable existence either within or outside Iraq. Financial assistance is likely to be more straightforward to administer, and ultimately less costly and legally risky, than a formal process of resettlement in the UK and elsewhere. Against that, it does not necessarily offer a sustainable solution, and there is a degree of moral hazard.
20. Officials agree that any financial assistance package should be based around an agreed number of months' salary, with additional elements for dependents (10% per dependent, up to a maximum of 50%) and the cost of relocating within the region. There are few useful precedents for setting a baseline. Since summer 2006, FCO has extended, on a case-by-case basis, "three months salary plus air fare" to staff in need. This has not been enough to allow some recipients to find a stable or secure existence elsewhere; we have received further requests for assistance from at least two former staff who have received the package. The resource implications of a more generous package of 6 or 12 months' salary are set out in the models at

Annex A.

Resettlement in third countries

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21. Many former LE staff have relocated to Jordan, Syria or other countries in the region. Some continue to face an uncertain or insecure future there, and to appeal for our help. As a policy option for assisting former staff, third country resettlement would require us to secure agreement from one or more host governments to grant residence and employment rights to numbers of former HMG staff. This would almost certainly need to be backed with some form of financial support from the UK.

22. FCO has asked posts in Arabic-speaking countries to sound out host governments informally on this basis. The results are not encouraging. Syria and Jordan are struggling under the weight of large Iraqi refugee populations,

They would categorically rule out giving special status to a sub-set of displaced Iraqis (and the Syrians have wider reasons for not wanting to help us). Oman and Lebanon have responded with firm "nos". Cairo are clear that we would get the same answer from the Egyptians, who have a major problem with Sudanese refugees, and that it would seriously damage our credibility to put the question.

Kuwait believe that concerns about illegal immigration/refugee influx, plus popular ill-will towards Iraqis, are likely to ensure a negative response when they see Kuwaiti officials this week. Tripoli report that we would need to make a formal request in order for the cautious and risk-averse Libyan system to deliver a clear answer, and that this is unlikely to be favourable because of Qadhafi's opposition to coalition intervention.

23. Against this, Tunisian MFA officials gave a measured initial reaction, and promised to consult their Minister this weekend. Subject to his reaction, we should instruct Tunis to follow up. We need to recognise, however, that any agreement is likely to take time to put together and will not be announceable in the short term.

Resettlement in the UK: Gateway

24. Officials agree that any credible package of assistance will need to include resettlement of limited numbers of staff in the UK. Home Office's preferred option for achieving this is the Gateway refugee resettlement programme. Applicants would be required to make their way to Jordan (or another third country) and register there with UNHCR, before being screened by Home Office/BIA missions.

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25. Gateway could be used to resettle around 50-80 principals plus dependents (up to a combined total of 300) in 2008. There are also likely to be further places available in future years but numbers cannot be determined at this stage. Allocation of places in Gateway to Iraqis will need to be set against the resettlement needs of other groups of deserving refugees from other countries. (The Home Office would expect any places reallocated from the existing Gateway programme to cover LE staff to be paid for by employing Departments.) Ministers will wish to consider whether this number of places represents a sufficiently generous or credible response to the problem. The overall number of serving and former staff who are likely to be defined as eligible for assistance under any reasonable criteria is likely to be in the hundreds.

26. If we were to use Gateway, we should consider the provision of financial assistance to applicants to support them during the period Jordan for several months before entering the UK. We would also need to ensure that eligible LE staff were able to enter Jordan and register with UNHCR there. This might require high-level intervention with the Jordanian authorities, who are reluctant to allow displaced Iraqis to establish themselves as refugees.

27. Departments employing Iraqi LE staff agree that Gateway represents a good option for assisting a limited number of former staff. But for current staff, Gateway has serious disadvantages. Requiring serving staff to flee to Jordan as the first step in the resettlement process would appear significantly less generous than US and Danish policies, which allow staff to resettle directly from Iraq (details at Annex C). It would also be very difficult to allocate Gateway places to serving staff in a way which was both fair and consistent, and did not encourage an exodus of serving staff.

Resettlement in the UK from Iraq

28. This raises the question of whether we should seek to allow serving staff to enter the UK directly from Iraq. It is not possible to grant asylum to Iraqi nationals who are in Iraq, as the 1951 UN Convention on the Status of Refugees defines a refugee as a person who, among other things, is "outside the country of his nationality". There are therefore two options for allowing Iraqi staff to enter the UK directly:

- i) entry clearance in Iraq leading to a grant of asylum in the UK; or

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- ii) exceptional leave to enter the UK (following which many of those thus admitted would probably apply for asylum).

29. These options would in some ways respond more effectively to the likely needs of serving staff, by allowing them to apply in the event of an acute threat, or as a form of insurance against future threats (as the US hope their staff will use the Special Immigrant Visa scheme).

30. The Home Office, however, is strongly opposed to this approach and considers that either of these options would carry serious risks for wider immigration/ asylum policy. They would risk driving up asylum intake; opening up legal challenges from failed asylum seekers from Iraq already in the UK (up to 15,000 people); hampering returns of failed asylum seekers to Iraq; and failing to offer the same level of effective pre-screening as Gateway. Given that almost 90% of Iraqi asylum claims in the UK are currently rejected, there is also the issue of how to deal with LE staff who choose to claim asylum once they reach the UK. On balance, these risks are more severe in the case of option i).

31. Under both options, the pool of eligible applicants could be determined initially by the use of objective criteria. Eligible candidates would then be screened/interviewed in country by either (depending on the option) staff from employing departments, visiting BIA teams, or FCO entry clearance staff. (If the latter, posts in Iraq would need to be reinforced with the necessary staff.)

32. A detailed explanation of how Gateway and the two direct resettlement options would work is at **Annex D**.

Serving staff

33. Subject to consideration of the above points, the following decisions might be taken in respect of a scheme for serving staff. The effect of these is summarised in the models at Annex A.

34. ~~Cut-off date: serving staff would be defined as those who were in our employ on or after 8 August, the date when the review was announced. Setting a later date (eg the date when the results of the review are announced) would risk inviting accusations of unfairness to staff who might have left in the intervening period.~~

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35. Criteria and numbers: officials from employing departments agree that we should restrict assistance to those staff who have worked for us for 12 months or more. A longer period (eg 24 months) would reduce numbers considerably but would make ineligible too many deserving cases.
36. Officials also agree that we should not seek to decide initial eligibility on the basis of occupation, as this would have a corrosive effect on morale and retention of excluded staff. However, this would depend on the type of assistance offered. If the programme were based around direct entry to the UK, then restricting eligibility to professional staff/interpreters who had served more than 12 months would be exactly analogous to US practice. It would also serve to keep numbers manageable.
37. Applying a length of 12 month length of service criterion would produce a pool of around 280 eligible staff: c 80 professional and 200 manual.
38. Implementation: a key question about implementation concerns the risk that a large proportion of eligible staff would choose to resign and apply immediately. We would need to consider whether to apply measures to control short-term uptake. Options are:
- to restrict any scheme to staff who were being made redundant, unless a senior officer/civil servant were to agree that an individual should be eligible because (s)he was resigning in the face of an immediate and acute threat. This would necessarily involve subjective and hence controversial judgements based on interviewing the individual and our general knowledge of conditions on the ground.
 - to decide on an acceptable level of turnover of serving staff, and limit the number of assistance packages accordingly. If uptake exceeded this, we would need to apply further objective criteria – such as first come, first served; or length of service - to decide which staff should be selected. Unsuccessful applicants would have to wait for the next tranche of places to become available.
-
- to accept the risk of a short-term “churn” in staff, as the US are doing
39. If offering different forms of assistance, or in the event of certain forms of assistance being oversubscribed, we would also need to decide how to choose which members of staff got which element of

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the package. We would not be able to make fair and consistent comparisons of the level of threat faced by several different individuals, so we would have to prioritise on the basis of objective criteria.

40. Funding: if these costs are borne by employing Departments on a pro rata basis, the exact costs which would accrue to each Department will not be clear until the scheme is launched. Further work with Departmental financial directors will be needed in order to determine the affordability of this option. Alternatively, Ministers might take the view that these represent unforeseen costs arising from operations and that access to the reserve should be sought.

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41. Media and parliamentary interest has largely been inspired by, and focussed on, former staff who continue to face threats as a result of their association with us, or who, having relocated to escape such threats, face continued insecurity and hardship. We will not draw the poison from this issue unless the outcome of the review addresses the question of former staff.
42. Because records of former staff, in particular the estimated 20,000 employed by MoD, are incomplete, it is extremely difficult to assess with any certainty the numbers of former staff who might be determined as eligible for assistance under various criteria. Because of the difficulty in assessing and comparing risk, officials do not believe it is viable to take a reactive approach, under which requests for assistance from individual staff would be considered on their individual merits.

Former staff: criteria

43. Cut-off date: the capability and intent of various groups to harm LE staff has existed since 2003, and we are not able to identify a clear point when there was a step change in the underlying threat. But FCO and MoD records of attacks and murders does suggest a significant increase in risks from late 2005. It is also reasonable to assume that the longer staff have survived without coming to harm since the period of their employment with us, the less likely they are to need assistance now. A cut-off date of 8 August 2005 (ie two years before the announcement of the review) would be broadly in line with our assessment of changes in threat levels. It should also have the

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effect of restricting eligible numbers, since the majority of former staff are likely to have been employed in the early days of Op Telic, when UK force levels were at their highest.

44. Length of service: a 12 month minimum length of service criterion would be consistent both with a similar approach to serving staff, and also with US practice.
45. Type of employment: professional staff/interpreters are those who have been most essential to delivery of our mission; they would also pose fewer challenges in terms of resettlement in the UK. Although officials recommend against applying this distinction to serving staff because of the risks to morale, retention and hence operational effectiveness, these risks would not apply in the case of former staff.
46. Restricting eligibility to professional staff who satisfactorily completed 12 months service and were in our employ on or after 8 August 2005 should have the effect of restricting numbers to a manageable level, and focussing assistance on those who are most likely to need or deserve it. MOD believe that the vast majority of former staff who would meet these criteria are likely to appear within their database (missing records are far more likely to relate to casual and unskilled workers employed for short periods in the early days of the operation). In order to anticipate the inevitable complaints of rough justice, when announcing a scheme we might want to make a commitment to review these criteria in the light of experience.

Former staff: forms of assistance

47. The forms of assistance set out earlier in this paper would also represent our main options for helping former staff. In the context of resettlement to the UK, however, there are strong arguments for using Gateway for this purpose. The concerns about the operational impact of using Gateway for serving staff do not apply, by definition, to former staff. In addition, Gateway offers a well-established mechanism for robust screening of applicants before entry to the UK; this will be useful in allowing careful consideration of applications from former staff whose records might be missing or incomplete.
48. Assistance to former staff should therefore comprise a combination of financial assistance; a limited number of places for resettlement in the UK via Gateway; and, subject to further work, the possibility of resettlement in third countries.

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Costs and resource implications

49. As noted above, these are extremely difficult to assess for a scheme to assist former staff. If former staff and their dependents take up to 50% of the Gateway places likely to be available to former staff in 2008 and 2009, this would cost around £6 million. The extent of the financial assistance on offer might be capped in advance.

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ANNEX A: SUMMARY OF MODEL SCHEMES

SERVING STAFF

Option 1 : Gateway plus financial assistance

Eligible staff

All staff with more than 12 months service: c 280

OR

All professional staff/interpreters: c 160

OR

All staff with more than 24 months service: c 160

Details of assistance

35 Gateway places for principals in 2008-09 (50% of the likely total available, because of the need to reserve some for former staff), plus dependents.

A similar proportion of total Gateway places (number tbc) in 2009.

Assuming similar level of provision of Gateway places in 2009-10 as in 08-09, this could see 70 principals plus around 135-350 dependents resettled over 2 FYs.

All those referred to UNHCR under Gateway receive three or six months salary package (plus dependents allowance and travel allowance) to support temporary relocation to Jordan.

Financial assistance offered as an alternative to Gateway. Financial assistance to comprise six or twelve months salary package (plus dependents' allowance and travel allowance).

How it would work

Eligible staff to be offered the opportunity to apply for resettlement in the UK via Gateway, or financial assistance. OR as above, but application only possible if made redundant or if applicant is judged to have been left with no option but to resign because of an acute threat.

If Gateway places are oversubscribed, give priority to professional staff. If still oversubscribed, prioritise by length of service. Unsuccessful applicants receive financial assistance.

Estimated Costs

If 3/6 months salary packages: £5.6m-£9.2m

If 6/12 months salary packages: £6.85m-£9.82m

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(Assumptions: that a similar number of Gateway places are offered in 09-10 as in 08-09, producing a total of 70 principals; and that the majority of these are taken by professional staff/interpreters)

Option 2: Direct admission to UK

Eligible staff

All staff with more than 12 months service: c 280

OR

All professional staff/interpreters: c 160

OR

All staff with more than 24 months service: c 160

Details of assistance

All eligible staff allowed to apply for entry clearance in Iraq leading to a grant of asylum in the UK; or exceptional leave to enter the UK.

The 230 MoD staff with more than 12 months service claim around 1000 dependents (FCO and DFID figures not available)

Applying only a 12 month service criterion could therefore lead to around 1,400-1,500 staff/dependents being able to apply for entry to the UK. If uptake were 60%, as per the Danish offer of asylum to their former staff, around 900 staff/dependents might apply.

How it would work

Eligible staff to be offered the opportunity to apply for entry clearance/exceptional leave OR as above, but application only possible if made redundant or if applicant is judged to have been left with no option but to resign because of an acute threat.

Estimated Costs

Unlike Gateway, guarantees of social support following admission to the UK are not inherent in this model – though the costs of supporting staff and their families in still likely to fall to HMG (for example through DWP and reimbursements to local government for housing benefit).

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Eligible staff

All professional staff and interpreters/translators with more than 12 months service and who were in our employ on or after 8 August 2005

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Details of assistance

35 Gateway places for principals in 2008-09 (50% of the likely total available, because of the need to reserve some for former staff), plus dependents.

A similar proportion of total Gateway places (number tbc) in 2009.

Assuming similar level of provision of Gateway places in 2009-10 as in 08-09, this could see 70 principals plus around 135-350 dependents resettled over 2 FYs.

All those referred to UNHCR under Gateway receive three or six months salary package (plus dependents allowance and travel allowance) to support temporary relocation to Jordan.

Financial assistance offered as an alternative to Gateway. Financial assistance to comprise six or twelve months salary package (plus dependents' allowance and travel allowance).

How it would work

Eligible staff to be offered the opportunity to apply for resettlement in the UK via Gateway, or financial assistance.

If Gateway places are oversubscribed, prioritise by length of service. Unsuccessful applicants receive financial assistance.

Estimated Costs

Not possible to estimate, due to lack of clarity over numbers. Likely to be in same order of magnitude as costs under Serving Staff Option 1.

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ANNEX B: SERVING STAFF BY LENGTH OF SERVICE AND JOB TYPE

Total number of LE staff employed as of 8 August

Employment Group	Length of Employment				
	Uncertain	Under 12 months	>12 months	Of which >24 months	Of which > 36 months
Professional/interpreters	14	75	68	55	26
Unskilled/manual	6	234	202	107	72
Totals	20	309	270	162	98

OF WHICH

MOD LE staff employed in Iraq as of 8 August¹

Employment Group	Length of Employment			
	Under 12 months	> 12 months	Of which >24 months	Of which > 36 months
Professional/interpreters	18	56	45	19
Unskilled/Manual	228	187	99	69
Totals	257	243	144	88

Basra CG, DfID and PRT LE staff employed as of 8 August²

Employment Group	Length of Employment				
	Uncertain	Under 12 months	>12 months	Of which >24 months	Of which > 36 months
Professional/interpreters	9	14	4	2	2
Unskilled/Manual	2	27	-	-	-
Totals	11	41	4	2	2

Baghdad Embassy, Erbil CG and DfID LE staff employed as of 8 August

Employment Group	Length of Employment				
	Uncertain	Under 12 months	>12 months	Of which >24 months	Of which > 36 months
Professional/Interpreters	5	5	8	4	5
Unskilled/Manual	4	6	15	8	3
Totals	9	11	23	16	8

¹ These figures exclude third country nationals.

² These figures include professional staff employed on our behalf by Enterplan, ArmorGroup, ASI and Crown Agents.

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ANNEX C: US AND DANISH POLICIES

To the best of our knowledge, the only two coalition partners to have put in place systematic assistance programmes for local staff are the US and Denmark.

US POLICY

2. Summary: in this FY and the next, the US is offering 500 Special Immigrant Visas (SIVs) for interpreters and translators working for both their military and civilian missions in Iraq and Afghanistan. Former staff are also eligible to apply. In addition, the USG is usually prepared to fast-track refugee applications from former Iraqi staff who apply via their Embassy or the IOM in Amman.
3. In 2006, the US made available up to 50 Special Immigrant Visas per year for local national interpreters/translators working with US forces in Iraq and Afghanistan. In June 2007, a new law (Kennedy-Lugar) expanded the total number of SIVs to **500 for each of FYs 07-08 and 08-09**, again covering both Iraq and Afghanistan. It also extended eligibility to interpreters/translators working for US diplomatic posts ("under the authority of the Chief of Mission").
4. All applicants for SIVs must have:
 - more than 12 months service. (As far as we can tell, there is no empirical basis – for example US employment law – for 12 months as a length of service criterion.)
 - have a favourable written recommendation from the Chief of Mission or commanding officer
 - clear a background check
5. SIV form a special category of US immigrant visa which are capped at 10,000 per year. Kennedy-Lugar therefore had the effect of re-weighting the annual SIV allocation in favour of LE staff in Iraq and Afghanistan, rather than adding places.
6. Former staff living outside Iraq are also able to apply for SIVs, subject to satisfying the above criteria.
7. It is too early to draw any conclusions about take-up rates for Kennedy-Lugar SIVs. The former cap of 50 was reached quickly, with surplus cases being "parked" for processing.
8. State Department are seeking to define "interpreter/translator" liberally, while remaining within the boundaries of the law. State Department guidance indicates that, for example, "staff who spend a predominant amount of time on duties such as attending meetings with local officials conducted in a language other than English, and then reporting to American supervisors in English" would qualify.
9. Meanwhile, State Department are seeking an amendment to Kennedy-Lugar which would allow all LE staff, not just interpreters/translators, to apply. This is based on a widespread feeling in US posts that many Iraqi staff who speak little or

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no English still incur serious risks in the course of loyal service. There is no certainty over whether or when the amendment might be passed.

10. In addition to SIVs, US posts in Iraq also work with the IOM to facilitate/fast-track applications for refugee status in the US made by former staff who travel to Jordan, Syria and other countries in the region. In general, most applications are granted, although applicants are still screened to ensure that they do not have criminal records etc.

DENMARK

11. In the run-up to the withdrawal in August of the Danish battlegroup from MND(SE), Denmark decided to offer to expatriate all serving and former local employees of the Danish government, plus dependents, to Denmark, where they will be able formally to apply for asylum.
12. The Danes are not applying any criteria or restrictions such as type of work or length of service. They do however reserve the right to turn down applications if they judge that it would be more appropriate for other coalition countries to assist (eg if an individual had worked for Denmark for 2 months and the UK for a year).
13. The total number of staff eligible for expatriation to Denmark is around 150; the Danes expect dependents to number around 350. So far around 90 former staff (with around 210 dependents) have applied, and been expatriated. The Danes do not expect many more applications, **giving a take-up rate of around 60%.** Now that the Danish battlegroup has left Basra, any remaining LE staff who want to apply need to do so through the Danish Embassy in Baghdad.

Iraq Group, FCO
28/9/07

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ANNEX D: COMPARISON OF OPTIONS FOR ADMISSION TO UK

1. GATEWAY PROGRAMME

Detail:

1. Those meeting agreed eligibility criteria register their interest in applying for Gateway with employing Department.
2. Employing Departments inform staff that if they want to register for resettlement in the UK, they must register with UNHCR in Jordan.
3. Employing Departments send BIA list of all individuals (including dependents) who will travel to Jordan, including type, length and location of service.
4. LE staff travel to Jordan, register with UNHCR providing full personal and employment details. UNHCR conducts resettlement interviews (some applicants may be refused if they do not meet UNHCR's resettlement criteria by failing to show suitability against the 1951 Refugee Convention or a resettlement need).
5. UNHCR submits cases to BIA for inclusion in BIA missions. BIA confirms credentials of cases with employing Departments and conducts pre-sift.
6. BIA missions interview cases. IOM screens on health grounds. Some cases may be refused according to Gateway policy, or on health grounds.
7. Approved cases move to the UK, timing subject to housing availability.

Advantages:

- The Gateway structures in BIA and with UNHCR and UK partner agencies are well established;
- There would be effective pre-screening, by both UNHCR and BIA, of people considered for resettlement in UK
- We would have UNHCR working with us as a partner in the process;
- We have sufficient commitments on housing provision to meet the current Gateway quota and projected increases over the next two FYs.

Risks/disadvantages:

- Risk of Jordanian unwillingness, especially given the possibility that those registered with UNHCR may still be refused entry to the UK (leaving the Jordanians unable to get rid of them)
- Likely wait of several months between arrival in Jordan and resettlement in UK

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- risk of skewing the emphasis of the Gateway programme away from its stated objectives.

And risks to immigration/asylum policy as follows, but less severe than for Options 2 and 3:

- once scheme in public domain we would face legal challenges from Iraqi failed asylum seekers in UK (estimate 15,000) claiming their situation was similar or worse and other Iraqis in the UK might also be encouraged to apply for asylum
- Iraqis abroad could challenge us on a similar basis
- Persons in conflicts in other countries who are locally engaged could argue that they should receive similar treatment
- General risk of driving up asylum intake
- Risk of compromising returns programme

2. ENTRY CLEARANCE LEADING TO GRANT OF ASYLUM

Detail:

1. Those meeting agreed eligibility criteria register their interest in applying for entry clearance (EC) to UK with employing Department (MoD, FCO, DFID) (on the basis of a fear of persecution but not technically for asylum)

2. Applicants screened in line with criteria set by BIA and in the spirit of 1951 Refugee Convention.

3. Applicants interviewed by either:

- MoD/FCO/DFID staff in Iraq (decisions made by BIA staff in UK)
- BIA interview teams from UK visiting Iraq

4. Applicants are security and health screened by employing Department

5. Those qualifying issued EC by BE Baghdad for either:

- Five years Leave to Enter (LTE)
- Settlement

6. Once in UK asylum granted on basis of earlier consideration and refugee status recognised

- Applicants would apply for either resettlement in UK or LTE, ~~not~~ asylum
- Applicants would be screened to confirm that they meet agreed eligibility criteria (length of service etc.)
- Screening would also seek to identify anybody who might fall for exclusion under the 1951 Refugee Convention on human rights violations or war crimes grounds

~~Applicants would be interviewed either by BIA teams of officials from UK visiting Iraq or MoD/FCO/DFID staff in Iraq~~

- Interview would follow principles of 1951 Convention, i.e. effectively determining whether applicant is likely to be persecuted on one or more Convention ground

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- If interviewed by MoD/FCO/DFID staff BIA would provide standard questions that should be followed; interview record would be transferred to BIA in UK for decision
- Those qualifying granted EC for either five years LTE or settlement
- Once in UK those admitted recognised as refugees (either after formal application for asylum or on BIA letter, using interview in Iraq as basis for determining they qualify for asylum)

Risks/disadvantages:

- Once scheme in public domain we would face legal challenges from Iraqi failed asylum seekers in UK (estimate 15,000) claiming their situation was similar or worse and other Iraqis in the UK might also be encouraged to apply for asylum
- Iraqis abroad could challenge us on a similar basis
- Persons in conflicts in other countries who are locally engaged could argue that they should receive similar treatment
- General risk of driving up asylum intake
- High risk of compromising returns programme
- Even with screening, risk of human rights violators/war criminals entering UK through this route
- Difficulty in excluding those who fall outside the objective criteria but claim the same or greater risk

3. EXCEPTIONAL LEAVE TO ENTER UK

Summary:

1. Applicants apply to BE Baghdad/Consulate Basra for LTE UK outside the Immigration Rules
2. Applicants screened to confirm they meet eligibility criteria
3. Screening would also seek to identify anybody who we would want to exclude on grounds of human rights violations or war crimes (in line with exclusion clauses of 1951 Refugee Convention)
4. Health checks completed
5. Applicants would be interviewed by FCO visa/consular staff in Iraq
6. Those qualifying would be granted entry clearance for five years LTE
7. Once in UK those admitted would be free to apply for asylum in-country with BIA (and would doubtless do so)

Advantages:

- Broadly similar to model 2 but less obviously linked to a risk-based asylum consideration
- No need to send BIA staff to Iraq

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Risk/disadvantages:

- If criteria not risk-based, it may be difficult to exclude applications from people who have worked for UK elsewhere in the world (for example the Ghurkha cases)
- Duplication of effort – would be looking at applications twice (for EC in Iraq and asylum in UK)
- Some applying for asylum once in UK might would probably be refused if did not meet 1951 Convention criteria but would then be impossible or impractical to return them to Iraq
- Risk of human rights violators/war criminals (who would fall for exclusion under 1951 Refugee Convention) entering UK through this route who we could not then return to Iraq
- BIA still open to legal challenges from Iraqi failed asylum seekers in UK on basis that we were effectively still opening an asylum channel from Iraq. Other Iraqis in the UK may seek to argue the concession in support of claims to asylum
- Difficulty in excluding those who fall outside the objective criteria but claim the same or greater risk

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