



Government Response to the House of Commons Foreign Affairs  
Committee Report HC 696 of Session 2013-14  
FCO Performance and Finances 2012-13

Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty

March 2014



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## **GOVERNMENT RESPONSE TO THE HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE REPORT HC 696 OF SESSION 2013–14 ON FCO PERFORMANCE AND FINANCES 2012-13**

The Government welcomes the Foreign Affairs Committee's inquiry into the FCO's Performance and Finances, published on 7 January 2014. We welcome the detailed work the Committee has undertaken and comment on the main points of the inquiry.

This Command Paper sets out our response to each of the Committee's conclusions and recommendations. The Committee's text is in bold and the Government's response is in plain text. Paragraph numbers refer to the Committee's report.

The Committee should note that combined answers have been given for recommendations 5 and 6, and for recommendations 7, 8, and 9.

### **The FCO's estate**

**1. We welcome the decision by the Treasury to permit greater flexibility for the FCO in reinvestment of proceeds from asset sales, as advocated by the Committee in 2012. (Paragraph 10)**

We welcome the Committee's support for the greater flexibility the FCO now has in reinvestment of proceeds from asset sales. This flexibility will help us ensure that income from property sales can provide the major share of the capital requirement for investment in the estate. We have now sold estate assets worth £136 million in this Spending Review period.

### **Residential accommodation policy**

**2. We endorse the principle that allocation of accommodation overseas should be guided by individual operational requirements and family considerations rather than grade or status. (Paragraph 13)**

We welcome the Committee's endorsement of our new Residential Accommodation policy, which will lead to a reduction of about 20% in our spending on staff accommodation. This is a policy for all HMG staff serving overseas in our posts, designed to ensure value for money.

### **One HMG Overseas project**

**3. While we welcome the One HMG Overseas project as a good way of strengthening the UK's identity locally and synthesising the effort of the various arms of Government overseas, the FCO should not underestimate the scale of possible resistance to the harmonisation of terms and conditions for staff from different departments and agencies. (Paragraph 17)**

The Government welcomes the Committee's support for the One HMG initiative. The Network Board (chaired by the FCO Chief Operating Officer and attended by his Whitehall counterparts) recently set out an ambitious agenda for 2014.

Harmonisation between departments will be a major focus in 2014. We do not underestimate the challenges involved with harmonisation and we are aware that we cannot deliver our vision of a single set of Terms and Conditions for all UK-based staff overseas overnight. But we believe that we can make progress this year to align some of the methodology we use to calculate particular UK-based staff allowances, such as the Cost of Living Allowance or hardship allowances. Our goal is to achieve a fully harmonised framework for establishing Terms and Conditions, which would include a modernised allowances structure and common policies on staff entitlements, how allowances are set and, wherever possible, the rates paid to individual staff. For locally-engaged staff, we are aiming for a fully harmonised framework for establishing Terms and Conditions and pay. Our objectives in this work are fairness and value for money.

We have made good progress on co-location and the vast majority of HMG staff overseas are now based on shared platforms. We accept that co-location will not be suitable in all locations and that there are significant challenges for some partners to joining our platform. We will continue to work with partners on a case-by-case basis to make co-location work in the majority of Posts. We accept that this is an ambitious agenda, but it is clearly the right one.

### **The overall staff profile**

**4. We conclude that in future the Department will need to attach greater importance to living within its means and will need to recognise that there are limits to what it can take on. We recommend that the FCO maintain a clearer definition of its priorities. (Paragraph 25)**

We agree with the recommendation of the Committee and are seeking to address this. We are pleased that the FCO has consistently managed within its means. For 2014-15 our aim is to have an even more focussed set of priority outcomes under our three Foreign Policy Priorities: Security, Prosperity and Consular. The FCO has already aligned and improved its business and financial planning processes so that the allocation of resources is more closely linked to priorities. Our strategic workforce plan sets out our ambition of a leaner and more affordable workforce, matching our resources to our foreign policy priorities, and we are also looking at ways to incorporate this into our business planning process. The FCO's Policy Unit is leading work to improve our prioritisation process, so that we can resource more flexibly and align strategic decisions about headcount and budgets with our priorities on a more frequent basis.

### **Provision of information on numbers of staff at individual posts**

**5. We welcome provision by the FCO in this year's Annual Report and Accounts of unrounded figures for UK-based staff in each post, and we welcome the steps taken by the FCO to enable it to supply unrounded figures for total staff employed at each post in future. We recommend that the Annual Report should include these figures as a matter of course each year. (Paragraph 29)**

**6. We reiterate our recommendation that the FCO provide us on request, and in confidence if necessary, with a breakdown of staff by function in any named country in the current year and the previous ten years. We acknowledge that there may well be occasions when the FCO cannot provide comprehensive data for locally engaged staff,**

**but we urge it to be as forthcoming as possible in this respect when a request is made by the Committee. (Paragraph 29)**

The FCO will continue to include, as a matter of course, unrounded figures for UK-based staff in each post in the Annual Report. Although it continues to be difficult for the FCO to provide a breakdown of staff by function for the current and previous ten years for operational and security reasons, we will continue to provide the Committee with the most detailed workforce management information we can within those constraints.

### **Locally engaged staff**

**7. We welcome signs that the FCO appears to regard 70% as a ceiling for the proportion of locally engaged staff, even if not a formal one. We request that the Department supply us with a copy of the current Duty of Care guidance as it relates to locally engaged staff. (Paragraph 32)**

### **Locally engaged staff and policy work**

**8. We believe that it would be shortsighted to allow the financial advantage derived from employing locally engaged staff rather than UK-based staff in diplomatic or policy work to restrict the opportunities for UK-based staff in policy grades to work overseas. The consequence would be to lessen their first-hand experience of living and working within different cultures and political and social environments and to diminish the knowledge that was acquired and carried forward to senior levels of the organisation over the years. We recommend that the Department state that it recognises this danger and that it offer a guarantee that the number of overseas positions for UK-based staff at policy grades will not decrease as a result of greater use of locally engaged staff. (Paragraph 35)**

**9. We recommend that the FCO clarify what measures or guidelines are currently in place to address concerns about locally engaged staff carrying out policy and advocacy work on behalf of the FCO, and about potential conflicts of interest. (Paragraph 36)**

Annex A contains the FCO's current Duty of Care Policy for all staff. Annex B covers responsibilities for local staff. And Annex C is supplementary guidance with more detailed focus on specific local staff-related issues.

The FCO is committed to maintaining and strengthening the diplomatic and policy skills of its UK-based staff and will not undermine the first-hand experience and knowledge base the Committee describes. A central theme of our work on Diplomatic Excellence is about enhancing the ability of our staff to perform in support of FCO priorities. The FCO does not have a policy limiting the proportion of its total global workforce that is locally-engaged, however we do not anticipate that the proportion will exceed 70% and we recognise the importance of British diplomatic staff representing our country abroad. Decisions on further localisation will be made in the light of what is best for the performance and efficiency of the FCO including the diverse professionalism and expertise that localisation brings. This is to ensure that we have the right people with the right skills in the right places in order to achieve high levels of performance whilst at the same time meeting our value for money commitments.

The FCO remains mindful of the potential exposure to coercion, threat or intimidation of our local staff. Our Duty of Care Policy provides clear guidance on what our duty of care means to all our staff and dependants and the measures we should have in place to protect them from reasonable foreseeable harm. The supplementary Duty of Care Guidance on specific local staff-related issues (Annex B) advises our Missions overseas not to place local staff at undue or foreseeable risk as a result of their employment, and to carefully consider immunity risk factors when designing job specifications and allocating duties, especially in difficult political environments where immunity is uncertain. It sets out steps, including a vulnerability audit, to assess, minimise, and if possible, eliminate their vulnerability. Where it is not possible to overcome vulnerability concerns, local staff are not recruited in roles which cause concern.

### **Languages: Recognition of skill levels**

**10. We believe that the FCO could and should have been bolder in its recognition of language skills in the new elements of the competency framework. We believe that evidence of an ability to strengthen contacts and win respect through use of the local language should be the mark of effectiveness, rather than simply a willingness to learn the language. We recommend that the FCO amend the relevant competency framework accordingly, before its introduction in 2014. (Paragraph 42)**

We have reviewed the wording of the ‘effective’ and ‘ineffective’ behaviour indicators for language skills in the new ‘engaging internationally’ competence. The narrative for each level has now been strengthened and agreed with DfID. Level 6 now reads as follows (levels 5 and below either repeat or have similar wording to the below):

- for effective behaviour: “When appropriate, can use a language/s to strengthen contacts and achieve UK interests. More widely promote the learning of languages”.
- for ineffective behaviour: “Where appropriate, is reluctant to develop appropriate language skills to increase impact. Fails to promote the learning of languages”.

Separately the FCO Board has recently agreed to maintain our existing Assessment and Development Centre (ADC) policy for FY 2014/15 but also to undertake a review to inform possible changes from FY 2015/16 onwards. This will include how we make use of the new Competency Framework (and ‘engaging internationally’ competence) in our ADC process.

**11. While we commend the FCO for its willingness to undertake a major exercise to gather and check data on the level of language proficiency of staff in 'speaker slots', we are concerned that the data initially supplied to us was inaccurate. (Paragraph 43)**

We accept this justified criticism and are pleased to report that we now have a new system in place to track more effectively the total number of ‘speaker slots’ in our overseas network. Every speaker slot has been assigned a special ‘position code’ which enables us to collate the total number of slots, or more specific data such as the total number in any given language, grade or skill level (i.e. ‘confidence’, ‘operational’ or ‘extensive’). This system will ensure that our future speaker slot data is more accurate. Now it is in place, we are also undertaking a strategic review of all our speaker slots to ensure that Heads of Missions are satisfied we have the right number of speaker slots in the right places to meet our business need. We expect this to be completed by the end of FY 2013/14. We will then write to the Committee with an up-to-date breakdown of our speaker slot network. The FCO has committed to do this annually.

**12. We conclude that the Committee's persistence in pressing for detailed information on language proficiency has been justified, and we welcome the FCO's recognition that action needs to be taken to raise proficiency levels. We commend the Permanent Under-Secretary for his evident determination to address the problem. (Paragraph 45)**

We continue to focus on obstacles to achieving optimum proficiency in languages. Analysis has shown that it is largely down to staff having insufficient training time to reach the level required for their 'speaker slot' positions. We are focusing on three key areas to remedy this problem. We have: tightened up our appointments process to ensure that staff who bid for speaker slot positions have the time available to reach the required level before taking up their post; introduced a 'red flag' system with Language Services Direct (the company who manage our Language Centre) so that students who start to deviate from their course learning plans are subject to review and can be delayed from taking up their post; and made clear to those staff already overseas who have not yet reached the required level that we expect them to do so as soon as possible. The FCO will include the latest data on target-level achievement in its return to the Committee at the end of the financial year.

### **Language allowances**

**13. We believe that language allowances, carefully set, can make a difference in persuading staff to develop and retain language expertise. If anything, the FCO should increase the allowances, in the interests of protecting its assets. (Paragraph 48)**

Our Language Allowances Review, previously flagged to the Committee, is now complete and being reviewed by our HR Committee and the Permanent Under-Secretary. It looked at the circumstances in which we pay allowances to staff, the values of those allowances and when they are paid, and surveyed staff on what incentivised them to learn a language. We will inform the Committee of any changes in policy that result from this review.

### **The Language Centre**

**14. We are yet to be satisfied that standards of teaching at the FCO Language Centre can match those at other specialist institutions given that there appears to be a major disparity in pay rates. We will be on the alert for any sign that the quality of language teaching has been compromised by an excessive focus on cost by the FCO. (Paragraph 52)**

This is an area we take extremely seriously and we do not believe that the quality of our language teaching is being compromised. When the FCO's previous framework contract for language training in the UK expired in 2012, it was a key priority to continue to provide excellent training provision as well as ensure value for money. We ran a rigorous, transparent and competitive procurement process to identify a single supplier for our language training to replace previous arrangements with 11 separate companies. Our evaluation process gave a higher weighting to quality than cost. All bidders were tested against an extensive range of criteria in order to demonstrate how they would provide excellent quality training. Language Services Direct was the successful bidder and they already have extensive experience of delivering language training for the FCO and for a range of other Government Departments.

We rigorously monitor standards of training and student progress to ensure the new arrangements are achieving our ambitious goals and any failure to meet agreed standards

would be followed up promptly in line with the Terms and Conditions of the FCO contract. Teachers are only employed by Languages Services Direct if they meet a range of ‘excellence criteria’ which includes factors such as being a native speaker in the target language with at least C1 Proficiency Competence in English, a teacher qualification of at least degree level and an internationally recognised certificate in teaching the target language with a minimum of 2,400 hours documented teaching experience. Focus groups with students are also held on a regular basis and feedback received to date from students about Language Services Direct has been positive.

### **Discretionary expenditure posts**

**15. We plan to request information on FCO posts' discretionary spending, including on whether and how the strategic impact of such spending is measured and evaluated, and we recommend that posts consider how they could do more to publicise their programme spending—whether managed centrally or locally—in order to provide greater transparency. (Paragraph 56)**

The FCO notes the Committee’s concerns regarding discretionary spending by FCO Posts, and are grateful for the Committee’s acknowledgement that the NAO did not identify any significant issues in its 2012-13 review relating to programme expenditure.

The Foreign Secretary wrote to the Chairman of the Committee on 13 April 2013, setting out that Posts receive a devolved Bilateral Programme Budget allocation from the centre to be used at the discretion of Heads of Mission, explicitly to deliver activities within their Country Business Plans.

Bids for these devolved (discretionary) funds are received by Posts from a variety of sources, typically small trusted local non-governmental organisations or charities. The projects are usually small scale, relatively low in cost and short in duration.

Scrutiny, measurement & evaluation: All project proposals must clearly state which Country Business Plan objective the project will help deliver. This “strategic fit” is one of the key criteria against which bids are appraised. Project proposals are assessed by Post Programme Boards, made up of FCO staff, representatives of other Government Departments and external members.

Once projects are approved and work is underway, Posts monitor progress closely. Project officers liaise regularly with implementers and receive monitoring reports. Bilateral projects are typically quite small in scale and therefore are not normally formally evaluated. However, a Project Completion Report is submitted at the conclusion of every project, setting out how the project delivered its purpose, defined as how well it helped to deliver the Country Business Plan objective it was aligned to. Posts also report twice a year on progress against their Country Business Plan, setting out the impact their project work has had in delivering their key objectives.

In addition to the regular reviews taking place during implementation, we also expect lessons learned from previous projects to be incorporated into the design of future work, to ensure that the greatest impact and value for money is realised. We are working to further improve the quality of our projects through enhancements to our monitoring and evaluation practice, including adopting examples of good practice from across Whitehall and the private sector.

Transparency: The FCO notes the Committee's recommendation regarding publicising Programme funds in order to ensure greater transparency. This year, the FCO will be making available more information about its programme spend than ever before. The FCO has published a plan for implementing the International Aid Transparency Initiative open data standard. Along with this ambitious plan, FCO produced a simplified set of "milestones" for delivering timely, comparable and accessible aid information. With effect from January 2014 we are publishing quarterly reports on all of the FCO's Official Development Assistance spend.

We encourage Posts to publicise successful projects, both in the host country and within the FCO, in order to demonstrate the impact that our engagement is having, and to spread good practice.

### **Our view on the British Council and its future form**

**16. We conclude that the cross-subsidy model for the British Council is better than any other in allowing for a strong British influence and presence overseas and a deeper understanding in other nations of Britain, its culture and values, at an acceptable cost to the taxpayer. A reliance on commercial funding would make the British Council's presence unsustainable in many areas where it has the greatest "soft power" value, and a reliance on public funding would shrink the organisation and reduce its influence with foreign governments (for instance in education services) overseas. The British Council has achieved a balance which works, and we believe that the current mixed finance model should be retained. (Paragraph 67)**

The Government notes the comments made by the Committee in relation to the British Council, which remains an important and highly-valued FCO partner organisation. A wide-ranging public and stakeholder consultation has been carried out as part of the Triennial Review of the British Council, gathering the views of some 1200 interested individuals and organisations. In this context, the Committee's comments are particularly timely. The Review team have shared their draft report with the British Council with a view to presenting final conclusions and recommendations in the near future.

### **Location of British Council offices**

**17. We accept that ease of access for customers should be a primary consideration in decisions by the British Council on where to locate its offices overseas. (Paragraph 69)**

Under the One HMG model, the FCO and the British Council review options for co-location. This is rightly informed by the services and activities delivered by the British Council in a particular location, and the circumstances that may affect Council operations. Where we can do so, we co-locate. The FCO and the British Council jointly consider issues such as security of staff and location of British Council premises if not part of the FCO estate.

### **Perceptions of the British Council**

**18. We note the fall in the percentage of survey respondents who said that they would recommend the British Council to others, but we do not believe that conclusions should be drawn unless there is evidence of a trend over a number of years. (Paragraph 74)**

The British Council keeps under continuous review the way in which it delivers impact as part of its corporate planning and reporting. Part of their review process includes analysis of current responses, how these link to relevant trends, and how best to adjust future services and activities in order to strengthen future performance. The Government agrees with the Committee that trend data should be taken into account, but also that it is important to exercise care when examining survey results.

### **The BBC World Service: Future funding and output**

#### **19. We strongly welcome the decision to increase the funding available to the BBC World Service in 2014-15. (Paragraph 76)**

The Government welcomes the Committee's continued interest in the work of the BBC World Service. The Government will continue to support the work of the BBC World Service including its efforts to deliver greater impact and audience reach; its aims to be the best international news provider; and to remain the world's most trusted public broadcaster.

#### **20. We urge the BBC to announce funding levels for the BBC World Service for the remainder of the current BBC Charter period and at least to maintain in real terms the 2014-15 funding levels. (Paragraph 78)**

The BBC World Service is a highly valued and important voice for Britain in the world and the Government remains fully committed to its global role. It is for the BBC Trust to comment upon its future funding and investment plans in line with the new Operating Licence which comes into effect in April 2014.

### **Future parliamentary oversight of the World Service**

#### **21. We intend to continue to monitor the BBC World Service's output and the extent to which it reflects the FCO's strategic priorities. We strongly oppose the proposals currently under consideration by the BBC Trust for a wider commercialisation of the World Service as indicated in the letter sent by the Director, Global News at the BBC, Mr Peter Horrocks, to Lord Alton of Liverpool on 1 November 2013. We expect to take evidence on these matters in future, both from FCO Ministers and from the BBC; and we encourage our successors to do the same. (Paragraph 80)**

The Foreign Secretary will continue to agree with the BBC Trust the objectives, targets and priorities and the languages in which the World Service is provided. The FCO, DCMS, the BBC Trust and the BBC World Service will continue to work together collaboratively, including to help ensure the World Service continues to be recognised as the world's most influential and respected international public broadcaster.

The new Operating Licence for the World Service, which comes into effect in April 2014, sets out the remit, objectives and budget for the World Service and explains how the World Service will continue to contribute to delivering the BBC's public purposes. Within this, the FCO understands that all commercial top-up funding proposals will be evaluated on the same underlying principles as before: that any such opportunities for partnership working will not in any way diminish the fundamental principles of integrity and trust in which the BBC World Service is held.

## Language services

**22. We recommend that the FCO use its influence to encourage the Burmese authorities to look favourably on provision of a BBC Burmese television service. (Paragraph 83)**

In January 2014, BBC News opened its first office in Burma and appointed its first ever resident correspondent who will report for the BBC on television, radio and online. The FCO, including through our embassy in Rangoon, stands ready to offer support and assistance on introduction of a BBC Burmese television service.

## Governance of the BBC World Service

**23. We are not convinced that the protection of the BBC World Service's interests within the BBC's governance structure is as strong as is being claimed, and the picture appears to us to be one of steady erosion of World Service influence within the BBC. The World Service will be heavily reliant in future upon advocacy by a single Executive Board member, who has many other competing responsibilities. The result may be that the World Service is more regularly denied the resources it needs to maintain or develop services. We recommend once again that the World Service should be represented on the BBC Executive Board, and we believe that the Director of BBC Global News should be a member of the Management Board. (Paragraph 89)**

The FCO remains strongly committed to collaborating with the BBC World Service and believes that it is a highly valued and respected institution whose global reach, quality of service and impartiality is widely respected internationally as an integral part of the BBC family/brand. It is for the BBC to comment on internal management structures and processes.

## ANNEX A: FCO Duty of Care Policy

### Definition

1. An employer's legal duty of care to its employees is defined as:

“its obligation to take reasonable steps to protect its employees from reasonably foreseeable harm which might occur as a result of their work.”

2. This test will always apply. What constitutes reasonable steps will vary from case to case. What is necessary to discharge the duty of care depends on the facts of any given situation. The consistent principle is that each department will look at the risk to the individual employee and, where appropriate <sup>(1)</sup>, their family. It is noted that the risk to one particular individual and his or her family may be different from others at the same post.

### Legal principles

3. The agreed legal principles are:

(i) Responsibility for duty of care rests with the parent department (employer) and is not delegable; but the duty of care can be discharged by passing to another department or organisation responsibility for the taking of reasonable steps to protect against reasonably foreseeable harm because of a change in the place(s) where an individual is working. For example, a government department with a staff member deployed to Iraq can discharge its duty of care by passing responsibility to the MOD which would ensure security for the staff member (on behalf of the parent department). <sup>(2)</sup>

(ii) Where a department provides a service it can have duty of care obligations which relate to that service. For example if a department provides healthcare it has a responsibility to provide it to a satisfactory standard, or, where it appoints a healthcare provider, to ensure that the provider is able to provide health care to an acceptable standard.

(iii) A department can choose to pass responsibility for discharging *certain* aspects of its duty of care obligation to another department, for example, transport, but retain responsibility for others such as accommodation; or, for example, a department could accept that the FCO provides security services but could elect to take responsibility for healthcare themselves. <sup>(3)</sup>

Responsibility may also be passed to a contractor, for example, for security, accommodation and/or transport. The precise arrangement should be set out in the contract between the parent department and the contractor and complemented by appropriate monitoring of the contract that is in place to deal with any new developments that might arise.

### Policy Principles

4. The agreed policy principles are:

(i) There should be clear agreement between the relevant departments as to any division of responsibility for duty of care obligations.

(ii) Where a government department provides a service, for example, a platform in which to live and work, and other departments accept that service, then this should usually be on the understanding that they accept any provisions that go with it. All staff must accept safety rules and regulations stipulated by the service provider. Inconsistencies that increase the risk to any staff are not acceptable. For example, staff on British Embassy compounds, and in

British Embassy vehicles, will ordinarily fall under the FCO's duty of care, and will therefore, have to accept FCO rules and regulation. Where MOD provides air transport in a high physical threat environment there may be a requirement to wear body armour at all times, even if the passenger's department does not require this. *Where a government department assesses that the risk to its officers differs from that which the platform provider assesses to apply generally to HMG staff in a location, that the employing department may, at its own expense, introduce control measures that **exceed** those required by the platform provider or locate the officer in alternative premises . The implementation of such measures should be agreed between the platform provider and the employing department prior to deployment .*

(iii) In the event of an emergency post closure the FCO would usually assume responsibility for the evacuation of HMG staff (and dependants) and will have a duty of care to them in carrying out the evacuation. In the case of evacuations where military assistance is required, responsibility for discharging the duty may be partially or fully passed to the MOD. Where the duty of care is allocated partially between departments, each department will be responsible for specific aspects of the evacuation; for example the FCO has responsibility for getting staff and dependants to a point of embarkation, the MOD then assumes responsibility for the physical evacuation.

(iv) The FCO will normally make final decisions on emergency evacuations in the event of post closures, taking advice from other government departments and agencies. <sup>(4)</sup>

#### **Duty of Care responsibilities for FCO Services Staff**

5. The principles above apply to FCO Services staff. Anything beyond these principles, for example duty of care when working for another government or a wider market client, needs to be set out in writing in a Memorandum of Understanding or a Service Level Agreement and agreed with the wider market client.

#### **Duty of Care responsibilities for Local Staff**

6. Duty of Care Responsibilities for Locally Engaged Staff are set out in Annex A [*Annex B in this Command Paper*]. This Annex should be read in conjunction with the Legal and Policy Principles set out above.

**Duty of Care responsibilities for Contractors / Suppliers** (hereinafter all referred to as Contractors). <sup>(5)</sup>

7. Duty of Care Responsibilities for Contractors are set out in Annex B [*Not included here*]. This Annex should be read in conjunction with the Legal and Policy Principles set out above.

#### **Duty of Care Responsibilities for Secondees to International Organisations**

8. Duty of Care Responsibilities for Secondees to International Organisations are set out in Annex C [*Not included here*]. This Annex should be read in conjunction with the Legal and Policy Principles set out above.

## **Visitors from external organisations**

9. Employers of non-HMG visitors retain a duty of care to their employees. If an employee of a company arrives in country without HMG's agreement, HMG will not owe them a duty of care but would be likely to assume such a duty if it provided accommodation, transport or any other facilities to such persons. The same principles apply to other entities, for example, NGOs. HMG may by agreement provide certain services (e.g. transport, accommodation) to visitors, in which case the principles in paragraph 4 apply.

10. If the visit is sponsored by HMG for example UKTI and FCO mount a mission to the country, a risk assessment will be performed and the risk agreed with the employer in writing. Risks, and responsibility for taking steps to discharge a duty of care, must be clearly identified before the visit. Similarly, it is important to ensure there is clarity with the sending organisation about the scope of its existing duty of care to its employees, agents and/or representatives.

11. Parliamentarians would normally visit with a government department. That department would owe them a duty of care – others may also do so. For example, FCO might provide accommodation and transport for a MOJ visit. The arrangement and respective responsibilities should be set out in writing between the relevant departments.

12. Where SAFE/HEAT training is necessary before going to a particular location and the visitor does not complete the required SAFE/HEAT training, there are likely to be implications for those who have to escort them. This needs to be documented as part of the risk assessment. There may be alternative training options available. If so, they should be taken.

## **Travel to Dangerous Areas**

13. The risk owner is normally the parent department of the officer(s) making any journey to a dangerous area. But HMG wishes all their staff working overseas as far as possible to do so together on a single platform as one team. This, and the particular status of a Head of Mission as the UK's official representative in the country of his/her accreditation, mean that the Head of Mission at a post has an over-arching responsibility for the consistency and effectiveness of security policies for all staff and dependants. There are exceptions to this general principle where MoD, SOCA and other agencies have approval for certain operations requiring a different duty of care regime.

14. The Network Board has affirmed that for cases, outside of the exemption in paragraph 13, where staff from any HMG department wish to visit an area for which the official HMG advice is against all travel or against all but essential travel:

(i) the officer(s)' parent department should complete a brief travel clearance assessment, as now, using a standard form along similar lines to that employed by the FCO (Annex D) [*Not included here*];

(ii) staff at the post concerned should liaise to ensure that the proposed visit is acceptable. The Post Security Officer (PSO) is normally the point of coordination in posts for these security issues;

(iii) again as now, the post should send the completed travel clearance form to the relevant parent department for decision by the geographical director or equivalent as risk owner;

(iv) The parent department should send a copy of their completed travel clearance form to the Security Department of the Estates and Security Directorate of the FCO at [Security.Direct@fco.gov.uk](mailto:Security.Direct@fco.gov.uk). This would not normally need any action but in the event of any disagreement in approach between the parent department and the FCO, ESD will alert the relevant FCO geographical directorate, who, as risk owner, will ask post to resolve or, if this cannot be done, escalate the issue as necessary for resolution.

(v) The key tenets of this policy are that departments concerned need to analyse and agree the risks together at posts before official travel is confirmed to dangerous areas overseas (that is places where FCO travel advice advises against either all travel or all but essential travel; or to an area with a particular security concern); geographical directors or equivalents remain the risk owners; and the coordination process outlined above should be implemented in collegiate, One Team spirit and involve minimal bureaucracy.

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(1) Departments do not have a legal duty of care towards the families of local staff as, unlike the families of UK based staff overseas, they have not been posted away from home with the employee. Practical issue to note: Please note that there are limits to the duty of care owed to the families of UK based staff who accompany a family member. In the main they would benefit from a degree of care that is similar to that offered to their family member who is a FCO employee. However, there have been some situations where in a dangerous/difficult situation a family member may have wanted to take a different course of action to that required by the FCO and the individual may have asserted that the FCO has a binding duty of care to accommodate their wishes – this is unlikely to be true in most (if not all) cases.

(2) The parent department must ensure that the other department/organisation is able to assume responsibility on behalf of the parent department. The responsibility should be set out in a written agreement between departments and be reflected in the staff member's terms and conditions. Note: a claim might still be made against the parent department. A court would consider whether it was reasonable for the parent department to discharge to that second department or organisation its duty of care obligations to take reasonable steps to protect the member of staff from reasonably foreseeable harm.

(3) Provision of healthcare does not need to be the same across departments so long as it meets a **minimum standard**. Not all departments will provide psychological testing and support if it is not considered essential for a particular post; different healthcare plans may prescribe different malarial prophylaxis.

(4) In the event that a department does not wish to evacuate its staff the decision will be referred, ultimately, to the Foreign Secretary and respective Secretary of State.

(5) A contractor/supplier is defined as an individual or organisation with which a department has entered into a contract for the supply of goods or services. It does not include individuals or organisations which the department funds via accountable grants.

## **ANNEX B: FCO Duty of Care Responsibilities for Local Staff**

1. The policy applies to local staff employed through an Embassy, High Commission or subordinate post contract and working on the FCO platform overseas. This Annex should be read in conjunction with the Legal Principles set out in the Duty of Care Policy. And with the new duty of care guidance for local staff on FCONet, which expands on specific areas to consider.

### **Who has Legal responsibilities for Local Staff?**

2. The FCO has a duty of care (DoC) to all its staff, including local staff. Other HMG departments have responsibility for the DoC for their local staff they directly employ, but may agree locally to pass responsibility for discharging DoC obligations to the provider of the platform in that location. Depending on the activity the local staff member is undertaking, the DoC may transfer from the direct employer to another Partner Across Government (PAG). This agreement should be recorded in writing.

3. The Employers' DoC towards local staff working for them applies only when they are at work (including where it has been agreed that local staff operate off-platform e.g. remote working from home in a location different to the city where the Mission is<sup>1</sup>), or travelling on duty. Duty of care to/from home/work is only extended where local staff are required to travel through high areas of risk to attend work, and where possible this risk should be mitigated in the first instance. Local staff who are off-duty and not on HMG premises, and are harmed by an incident that is unrelated to their work for HMG, would not engage HMG's liability. If the staff member were targeted because of his or her work for HMG (whether the direct employer or the PAG directing their day-to-day activities), this could incur HMG liability where such harm was reasonably foreseeable and the relevant employer failed to take reasonable steps to avert it<sup>2</sup>.

4. Local staff working at Honorary Consulates should be treated in exactly the same way as local staff working at other posts. Their managers should take all the above DoC considerations into account, as they would for local staff working in other consular offices.

### **Roles and Responsibilities**

5. In hostile environments, where local staff have been known to be targeted, HMG should ensure that all reasonable steps are taken to protect them from such harm. Examples of steps that could be taken to protect staff are: ensuring that their identities are protected; that they have a safe exit and entry point to work where they cannot be targeted, that they are not obliged to take on roles that have been assessed would put them in likely positions of danger.

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<sup>1</sup> Before entering into such arrangements, employers/posts should assess the risks around this practice, including using the Vulnerability Audit (see paragraphs 12 to 13). And consider and agree with such staff members DoC measures to put in place to mitigate any risks (see paragraphs 5 to 6).

<sup>2</sup> Will depend on the arrangements made between the direct employer and the PAG in terms of who is responsible for what and where the foreseeable harm occurred i.e. who failed to take reasonable steps. If arrangements do not cover the scenario, and therefore it was a gap, then responsibility will likely fall to the direct employer.

6. Where host governments have a known antipathy to, for example, human rights work, local staff who do not have privileges and immunities should not be asked to work in fields that will put them in a vulnerable position in relation to the authorities of the host state. The new FCO guidance on duty of care for Local Staff sets out steps (a vulnerability audit) which employers of local staff should take in order to assess, minimise and –*if possible* – eliminate their vulnerability (see also paragraph 12).

7. In extremely dangerous environments, HMG should seek to set up and deploy, as quickly as possible, a similar framework to the cross-Whitehall framework for DoC for local staff in Afghanistan.

### **Particularly Hazardous Posts (PHPs)**

8. A cross-Whitehall staff intimidation policy framework has been agreed for handling cases of intimidation in Afghanistan. This is specific to Afghanistan. Cases of intimidation in other PHPs should be considered on a case by case basis in consultation with HRD and the relevant geographical Directorate.

9. Where staff face a real threat our options include giving safety advice to staff and their families, granting extended paid or unpaid leave or transferring staff to different jobs. In exceptional circumstances we may provide financial assistance to help staff relocate.

### **Other “At Risk” Posts**

10. Managers at Posts which do not fall under the PHP category, but where there is still a foreseeable risk of local staff intimidation, should take the following three steps to ensure that everything possible is done to avoid, and handle, intimidation of local staff:

- Carry out Vulnerability Audit below as necessary to assess risk of intimidation; then
- Take necessary preventative steps – audit local staff job specifications for vulnerability and respond accordingly; then
- If necessary, draw up a contract with local staff showing clearly what Post can and cannot do for staff faced with intimidation

11. Where recommended by ESD, local staff undertaking official duty travel should complete a Security Awareness in Fragile Environments (SAFE) course, or a local equivalent agreed by ESD (costs to be met from local budgets).

### **Intimidation Vulnerability Audit**

12. Posts must make sure that local staff are not placed at undue or foreseeable risk of intimidation by external groups or the host government as a result of their employment.

13. Using the questions below as appropriate, Managers at Post should, if there is a risk of intimidation to local staff, audit local staff Job Descriptions, and modify them to remove as much risk as possible.

<b>Overall Post Environment</b>	<b>Traditional Risks</b>	<b>Bribery</b>	<b>Job-Related Risk</b>
What support is given to local staff in difficult personal circumstances?	Are local staff privy to classified or sensitive information which could place them at risk of intimidation?	Are the standard Home Office Visa and Immigration Service (formerly UKBA) integrity checks carried out regularly?	Do local staff have contact with potentially sensitive stakeholders (e.g. opposition or human rights groups)? Should those contacts be limited to UK Based staff only?
Are line managers aware of the need to be vigilant to any changes in their teams?	Are all ESD security procedures followed to the letter for IT, documents, buildings and vehicles?	Are staff regularly reminded of the post's gifts/hospitality policy?	Are local staff at risk if they interpret at meetings with such stakeholders?
Do line managers carry out regular vulnerability audits of their staff's job descriptions?	Is there a system in place which encourages local staff to report contacts from security services in confidence?	Is there a procedure in place for staff to immediately report any attempt to bribe them?	Are job descriptions reviewed regularly with line managers, and potential areas of risk flagged up?
Is there visible senior engagement with all levels of staff?	Is the behaviour of UK based staff such that local staff may find themselves pressurised to pass details on under pressure?	Are disciplinary procedures in place which can be implemented swiftly if necessary?	Do local staff send out official documents under their names, and make official telephone calls? Should this be curtailed?
Are staff encouraged to discuss areas of their work where they feel at increased			Should documents produced by local staff be given a PROTECT classification?

vulnerability?			
Are there clear contact points for local staff under pressure?			What public and digital diplomacy activities are local staff engaged in? Should these be limited to avoid potentially controversial areas?

**Model Duty of Care Contract for Posts to use with their Local Staff**

14. This contract is already at use at one FCO Post. We encourage other Posts, where there is a possibility of local staff facing intimidation by external forces, to deploy something similar.

**We will provide for all Local Staff at Post:**

- To be employed under terms and conditions conforming to local employment legislation.
- An inclusive working environment, with inclusion in all staff-wide Post activities and with equal access to Mission amenities.
- An annual agreed Learning and Development Plan, including the opportunity to attend fully funded job related and personal development training courses.
- An Annual Performance Appraisal and annual performance-related pay.
- The opportunity to join the Post’s LSA.
- Mentoring and coaching opportunities.
- Accreditation with the local MFA for certain representational positions.

**If you encounter difficulties directly connected to your work at Post, or have compelling reasons why you do not wish to get involved in carrying out certain functions, we will:**

- Offer you a regular and in confidence dialogue with your line manager, DHM or Head of Post as appropriate.
- Discuss with you any areas of work which you feel uncomfortable completing and agree appropriate adjustments whenever possible.
- Offer you access to the FCO funded Employee Assistance Programme, a confidential counselling service.
- Offer you the advice and support of managers backed up by FCO HR Business Partners.
- Consider, on a case by case basis, providing you with legal assistance if we consider your work at Post has caused you specific legal difficulties.

**Post cannot, however:**

Obtain diplomatic immunities and privileges for you as specified under the Vienna Convention on Diplomatic Relations 1961 or the Vienna Convention on Consular Relations 1961.

Offer you terms and conditions of employment which do not conform to local employment legislation.

**Crises and Post Evacuation**

15. Posts' Business Continuity Plans must include local staff. In the event of a crisis, Posts should follow Crisis Management Department's guidance which includes steps to take to ensure the welfare of all staff.

16. Once a crisis is declared, all staff should be made aware of the situation. When UK-Based staff are evacuated back to the UK from Post, local staff are not included in the evacuation, because of their different Terms and Conditions of Service (but see paragraph 17).

**Third Country Nationals**

17. The FCO will make sure that local staff who are British nationals (and their spouses and dependants) are covered by-Post Crisis Management Plans or other evacuation plans. In the event of rising tensions or a slow burning crisis, when Post consider their staffing profile consideration should be given to advising local staff who are third country nationals (TCN) to make their own arrangements to leave for a place of safety. Posts should also consider in their evacuation plan what help is possible under the circumstances for local staff who are third country nationals. Posts need to consider their staffing needs in order to provide a crisis response with their duty of care as employers not to have their staff at risk. TCNs may wish to follow the advice of their own governments, or the host government, and be registered with their country's Embassy. Posts may include TCNs in their evacuation plans to be taken to a place of safety. Advice and agreement should be sought from HRD, Crisis Management Department and the Geographical Directorate before opting for the latter due to funding and/or immigration requirements.

## ANNEX C: FCO Local staff policy supplementary guidance

### Local Staff Policy: Duty of Care

#### Policy Principles

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- Duty of care describes an employer's "*obligation to take reasonable steps to protect its employees from reasonably foreseeable harm which might occur as a result of their work.*" The FCO has a duty of care to all its staff.
- During the Local Staff Review we found that the FCO's guidance on duty of care for Local Staff needed updating to reflect the changing roles and responsibilities of Local Staff, set out in the [Strategic Workforce Plan](#).
- We have responded by creating a new section of Local Staff guidance, building on existing HR guidance, and including a stronger focus on:
  - [Insurance](#)
  - [Cross-Border Travel](#)
  - [Crises and Post Evacuation](#)
  - [Intimidation](#)
- It is underpinned by the following principles:
  - Responsibility for duty of care rests with the HMG department employing the member of staff, which must take reasonable steps to protect them from reasonably foreseeable harm which might occur as a result of their work;
  - Certain aspects of an employer's duty of care obligation can be discharged by passing, with mutual agreement, and in writing, the responsibility to take reasonable steps to protect against reasonably foreseeable harm, for example in relation to security, healthcare or transport;
  - Posts must ensure that all Local Staff are appropriately insured, including for work-related travel and for driving official vehicles;
  - Local Staff visiting Particularly Hazardous Posts are eligible for the Hazardous Conditions Allowance, and, where necessary, SAFE training;
  - Clear procedures should be in place for Local Staff (communication and appropriate payment) when UK-based staff are evacuated from Post;
  - Posts should have procedures to prevent and mitigate external intimidation of local staff.

#### Scope of Policy

The policy applies to Local Staff employed through an Embassy, High Commission or subordinate Post contract and working on the FCO platform overseas, and it reflects duty of care (DoC) principles applied by other UK Government Departments. It should be read in conjunction with the Legal Principles set out in the [FCO's Duty of Care Policy](#). Other HMG departments have responsibility for the DoC for their Local Staff where they are employed on their terms and conditions of service, but may agree locally to discharge responsibility to the provider of the platform in that location. This agreement should be recorded in writing. If another department takes responsibility for an area of care, e.g. security or transport, then DoC can be discharged to that department for that particular service.

The policy is only applicable in cases where staff are working (including where it has been agreed that Local Staff operate off-platform e.g. remote working from home in a location different to the city where the Mission is<sup>3</sup>) or carrying out duty travel, or where an incident occurs to a member of staff outside work as a direct result of their association with HMG. Duty of care to/from home/work is only extended where Local Staff are required to travel through high areas of risk to attend work, and where possible this risk should be mitigated in the first instance. Local Staff who are off-duty and not on HMG premises, and are harmed by an incident that is unrelated to their work for HMG, would not engage HMG's liability. If the staff member were targeted **because** of his or her work for HMG (whether the direct employer or the PAG directing their day-to-day activities), this could incur HMG liability where such harm was reasonably foreseeable but we failed to take reasonable steps to avert it<sup>4</sup>.

### **Policy Summary**

The policy is a framework to ensure that the FCO is meeting its Duty of Care obligations towards Local Staff. Key areas covered include:

- Insurance for Local Staff
- Cross-Border Travel
- Death in Service
- Terrorist Attacks
- Intimidation
- Crises and Post Evacuation
- Honorary Consulates and their Local Staff

It does not provide detailed guidance on Local Staff Terms and Conditions of Service or Medical and Welfare issues, which are covered in the relevant Sections of Local Staff Policy.

### **Policy Procedures**

1. Introduction – What is Duty of Care?
2. Medical and Personal Accident
3. Drivers and Passengers of Official Vehicles
4. Cross-Border Travel
5. Travel Insurance
6. Safety and Security Awareness
7. Official Visits to the UK
8. Criminal Injury During Official Visits to the UK
9. Short Term Deployments/Attachments
10. Consular and RDT Deployments/Attachments
11. Travel to Countries where the UK does not have a Post
12. Travel to Particularly Hazardous Posts (PHPs)

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<sup>3</sup> Before entering into such arrangements, employers/posts should assess the risks around this practice, including using the Vulnerability Audit (see section 18). And consider and agree with such staff members DoC measures to put in place to mitigate any risks (see section 15).

<sup>4</sup> Will depend on the arrangements made between the direct employer and the PAG in terms of who is responsible for what and where the foreseeable harm occurred i.e. who failed to take reasonable steps. If arrangements do not cover the scenario, and therefore it was a gap, then responsibility will likely fall to the direct employer.

13. Death in Service
14. Terrorist Attacks
15. Intimidation
16. Particularly Hazardous Posts (PHPs)
17. Other “at Risk” Posts
18. Intimidation Vulnerability Audit
19. Model Duty of Care Contract for Posts to use with their Local Staff
20. Crises and Post Evacuation
21. Third Country Nationals
22. Honorary Consulates and their Local Staff

**Annex A:** Travel Clearance Application/Risk Assessment form for travel to PHPs [Not included here]

**Annex B:** Local Staff Consent Form for Travel to PHPs [Not included here]

**Annex C:** Standard Exclusions in Local Staff Medical Schemes

**Annex D:** Guidelines for Local Staff Whilst in the UK [Not included here]

## **1. Introduction – What is Duty of Care?**

Duty of Care describes an employer’s “*obligation to take reasonable steps to protect its employees from reasonably foreseeable harm which might occur as a result of their work.*” The FCO has a Duty of Care to all its staff, whether UK-based or locally-engaged.

### **Insurance for Local Staff**

## **2. Medical and Personal Accident**

Local staff should be covered for medical care in accordance with good employer practice (and taking account of local law). The FCO will look favourably at covering medical treatment excluded by any insurance policies if it is required as a direct result of the employee’s work for the FCO. Standard exclusions in Local Staff medical schemes are listed in Annex C.

Posts must insure Local Staff against accident or injury while on duty where it is mandatory under local law. In other Posts, the FCO carries the risk. If a member of Local Staff has an accident or is injured at work, Posts should look favourably upon compensating the staff member if they are not legally obliged to do so, and should immediately inform their Resource Management Unit if there is a case for compensation.

## **3. Drivers and Passengers of Official Vehicles**

Heads of Post should ensure that all staff who drive official vehicles are adequately insured. Local Staff injured while passengers in an official vehicle can claim against the FCO’s global policy (apart from in the USA and Canada where separate arrangements apply). Drivers in countries where local Employer’s Liability Insurance is compulsory may be already covered. Where this is not the case, Posts should take out insurance for drivers of official vehicles.

## **4. Cross-Border Travel**

When Local Staff travel overseas on official duty, they remain on their parent Post’s Terms and Conditions of Service.

## **5. Travel Insurance**

Before a local member of staff travels to the UK or a third country, their parent Post must ensure that they and their personal effects are fully insured.

Posts should pay for any initial urgent and unavoidable medical treatment during an official visit by a local member of staff to a third country.

Posts are responsible for ensuring that official vehicles, and drivers, travelling to neighbouring countries are properly insured.

## **6. Safety and Security Awareness**

Local Staff should be made aware of any specific risks surrounding the country which they are visiting officially, and contact the local OSM for advice if necessary. They should also read ESD's Staying Safe booklet before departure.

## **7. Official Visits to the UK**

When Local Staff make official visits to the UK they should pass their insurance details to their host FCO department before departure. Their host department should appoint a liaison officer for the visit, who can be contacted in the case of difficulty. Posts/Directorates may find it useful to look at Guidelines for Local Staff Whilst in the UK at [Annex D](#).

In the event of a serious incident occurring to the visiting member of staff, the host department should contact HRD Health & Welfare for advice and guidance. If, before insurance can be claimed, serious initial financial expenditure is likely, the host department should consult their RMU or Finance Directorate.

## **8. Criminal Injury during Official Visits to the UK**

A member of Local Staff injured as a result of criminal action while in the UK can apply for compensation under the Criminal Injuries Compensation Scheme (CICS).

## **9. Short Term Deployments/Attachments**

Local Staff on short-term deployments/attachments to the FCO, or to third country Posts, should have full medical and travel insurance for the duration of their visit provided by their Post. Staff should check before departure if they are covered by reciprocal medical arrangements in the country they are visiting (e.g. under the European Health Insurance scheme) and ensure that any relevant documentation for that scheme is carried with them and up to date.

## **10. Consular and RDT Deployments/Attachments**

Local Staff who volunteer for short-term consular deployments/attachments remain on their parent Post's terms and conditions.

Crisis Management Department (CMD) and Consular Directorate already have costs and insurance cover in place for Rapid Deployment Team and Regional Resilience deployments respectively. Further details can be sought direct from CMD or Consular Regional Directors (who should always be consulted on any consular deployments in the first instance).

The receiving Post is responsible for additional arrangements.

## **11. Travel to Countries where the UK does not have a Post**

If Local Staff travel officially to countries where the UK does not have a Post, their home Post should contact either a third country embassy in that country or international organisation with which the UK enjoys good relations to ensure that the member of staff travelling has someone to turn to in the event of illness, accident or other difficulties. Contact numbers for the supporting organisation, as well as for local emergency healthcare providers/medical evacuation providers should be held by the member of staff and their parent post during the visit.

## **12. Travel to Particularly Hazardous Posts (PHPs)**

FCO policy is set out in e-gram 17643/10 of 16 December 2010 (Restricted). It aims to allow travel where operationally needed while managing the associated risks to staff effectively. It is consistent with practices in place for UK-based staff.

Official Local Staff travel to PHPs must be on a voluntary basis, unless travel to PHPs is part of their contract. These procedures do not apply to staff recruited locally in PHPs for travel within the same country, for which local procedures should already be in place. Posts should follow ESD's procedures for all staff travel to hostile environments on FCONet (Restricted Tier). Staff without access to the Restricted tier should seek advice from their Post Security Officer on procedures.

Before any travel by a local member of staff to a PHP, the following steps must be taken:

- a Travel Clearance Application/Risk Assessment form ([Annex A](#)) must be completed by the sending and receiving Posts and signed by i) the relevant risk owner (i.e. a FCO Geographical, Consular or HR Director), ii) the Heads of the sending and receiving Posts, and iii) ESD; this also applies to Local Staff at Post who are employed on Post contracts but working directly to PAGs.
- Local Staff must sign a consent form ([Annex B](#)) to confirm that they are travelling voluntarily and understand the risks involved and the limits of the FCO's assistance;
- all staff should, where recommended by ESD, complete a Security Awareness in Fragile Environments (SAFE) course, or a local equivalent agreed by ESD, before deployment;
- Post should arrange appropriate insurance for staff before they travel.

All costs, including the provision of the SAFE course (or local equivalent) should be met from local budgets, to be negotiated between the sending and receiving Post in consultation with RMUs. As a rule of thumb, the Post benefiting from the visit should pay.

Local Staff are eligible for the same daily allowances for travelling to PHPs as UK-based staff – these should be paid by the Post benefitting from the visit. However, as Hazardous Conditions Allowance (HCA) is taxable, Local Staff in receipt of this allowance must declare it as income when submitting their tax returns to their local tax authorities. For Local Staff who are ineligible to pay local income tax, Posts should abate the amount of HCA payable at the same rate as the abatement applied to the officer's salary.

### **13. Death in Service**

The benefits payable if a member of Local Staff dies or is killed should be covered by their terms and conditions of service.

Local Staff should be asked to nominate an official next of kin when they are recruited. If a Local Staff member dies, details of the death in service benefits should be provided to the next of kin as soon as possible.

The effect of a colleague being lost or injured is likely to have an effect on the rest of staff at post. It is important that they are kept as fully informed of developments as the circumstances permit. They should be reminded that the Employee Assistance Programme provides confidential and professional help, support, information and telephone counselling 24 hours a day, seven days a week.

### **14. Terrorist Attacks**

FCO policy is outlined in Local Staff Policy – Medical, Insurance and Welfare Issues on FCONet.

Following a terrorist attack, the FCO will give all possible support to the victims and their families. We will pay immediate medical and funeral costs and provide compensation for the loss of personal effects not covered by insurance. Sympathetic consideration will be given to paid decompression breaks to enable staff to get away from psychological reminders of the incident.

If Local Staff are injured or killed in a terrorist attack because of their work for HMG they, or their families, will receive an ex gratia payment. The Criminal Injuries Compensation Agency (CICA) will advise on the size of the payment, which will take relevant factors (e.g. school fees and other long-term commitments) into account. We will make sure that payments are fair, and err on the side of generosity, taking into account local practice and the local legal position. Posts should contact the Local Staff, Immunity and Passport Policy Team, who will liaise with CICA.

Any provisions in a staff member's Terms and Conditions of Service for compensation in the event of death or serious injury will be honoured. Pension and other terminal benefits accrued will be paid.

The FCO will make an initial payment to alleviate immediate financial hardship faced by the injured officer or the bereaved. Additionally, in the case of a deceased member of staff, we will make provision for the dependants of the deceased person to continue to receive the equivalent of his/her salary for a period of 6 months also on an ex gratia basis. These interim figures will be considered an advance of the final CICA figure.

While Posts will provide travel insurance for staff travelling to third countries on business, all staff are encouraged to take out their own Life Assurance, Personal Accident Insurance and Personal Effects Insurance. If staff choose not to take out insurance, they bear the risk for any losses incurred as a result of an incident. HMG will compensate staff for losses incurred as a result of their work for which Local Staff were unable to obtain insurance cover.

## 15. Intimidation

Posts must make sure that Local Staff are not placed at undue or foreseeable risk of intimidation by external groups or the host government as a result of their employment. In hostile environments, where Local Staff have been known to be targeted, Posts should ensure that all reasonable steps are taken to protect them from such harm. Examples of steps that could be taken to protect staff are: ensuring that their identities are protected; that they have a safe exit and entry point to work where they cannot be targeted, that they are not obliged to take on roles that have been assessed would put them in likely positions of danger.

Where host governments have a known antipathy to, for example, human rights work, Local Staff who do not have privileges and immunities should not be asked to work in fields that will put them in a vulnerable position in relation to the authorities of the host state. (See Intimidation Vulnerability Audit)

## 16. Particularly Hazardous Posts (PHPs)

A cross-Whitehall staff intimidation policy framework has been agreed for handling cases of intimidation in Afghanistan. This is specific to Afghanistan. Cases of intimidation in other PHPs should be considered on a case by case basis in consultation with HRD and the relevant geographical Directorate.

Where staff face a real threat our options include giving safety advice to staff and their families, granting extended paid or unpaid leave or transferring staff to different jobs. In exceptional circumstances we may provide financial assistance to help staff relocate.

## 17. Other “at Risk” Posts

Managers at Posts which do not fall under the PHP category, but where there is still a foreseeable risk of Local Staff intimidation, should take the following three steps to ensure that everything possible is done to avoid, and handle, intimidation of Local Staff:

- Carry out Vulnerability Audit below as necessary to assess risk of intimidation; then
- Take necessary preventative steps – audit Local Staff job specifications for vulnerability and respond accordingly; then
- If necessary, draw up contract with Local Staff showing clearly what Post can and cannot do for staff faced with intimidation.

## 18. Intimidation Vulnerability Audit

Using the questions below as appropriate, Managers at Post should, if there is a risk of intimidation to Local Staff, audit Local Staff Job Descriptions, and modify them to remove as much risk as possible.

<b>Overall Post Environment</b>	<b>Traditional Risks</b>	<b>Bribery</b>	<b>Job-Related Risk</b>
What support is given to Local Staff in difficult personal circumstances?	Are Local Staff privy to classified or sensitive information which could place	Are the standard Home Office Visa and Immigration Service (formerly UKBA) integrity	Do Local Staff have contact with potentially sensitive stakeholders (e.g.

	them at risk of intimidation?	checks carried out regularly?	opposition or human rights groups)? Should those contacts be limited to UK-based staff only?
Are Line Managers aware of the need to be vigilant to any changes in their teams?	Are all ESD security procedures followed to the letter for IT, documents, buildings and vehicles?	Are staff regularly reminded of the Post's gifts/advantages/hospitality policy?	Are Local Staff at risk if they interpret at meetings with such stakeholders?
Do Line Managers carry out regular vulnerability audits of their staff's job descriptions?	Is there a system in place which encourages Local Staff to report contacts from security services in confidence?	Is there a procedure in place for staff to immediately report any attempt to bribe them?	Are job descriptions reviewed regularly with Line Managers, and potential areas of risk flagged up?
Is there visible senior engagement with all levels of staff?	Is the behaviour of UK-based staff such that Local Staff may find themselves pressurised to pass details on under pressure?	Are disciplinary procedures in place which can be implemented swiftly if necessary?	Do Local Staff send out official documents under their names, and make official telephone calls? Should this be curtailed?
Are staff encouraged to discuss areas of their work where they feel at increased vulnerability?			Should documents produced by Local Staff be given a PROTECT classification?
Are there clear contact points for Local Staff under pressure?			What public and digital diplomacy activities are Local Staff engaged in? Should these be limited to avoid potentially controversial areas?

## 19. Model Duty of Care Contract for Posts to use with their Local Staff

This contract is already at use at one FCO Post. We encourage other Posts, where there is a possibility of Local Staff facing intimidation by external forces, to deploy something similar.

### **We will provide for all Local Staff at Post:**

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An annual agreed Learning and Development Plan, including the opportunity to attend fully funded job related and personal development training courses.

An Annual Performance Appraisal and annual performance-related pay.

The opportunity to join the Post's LESA.

Mentoring and coaching opportunities.

Accreditation with the local MFA for certain representational positions.

### **If you encounter difficulties directly connected to your work at Post, or have compelling reasons why you do not wish to get involved in carrying out certain functions, we will:**

Offer you a regular and in confidence dialogue with your line manager, DHM or Head of Post as appropriate.

Discuss with you any areas of work which you feel uncomfortable completing and agree appropriate adjustments whenever possible.

Offer you access to the FCO funded Employee Assistance Programme, a confidential counselling service.

Offer you the advice and support of managers backed up by FCO HR Business Partners.

Consider, on a case by case basis, providing you with legal assistance if we consider your work at Post has caused you specific legal difficulties.

### **Post cannot, however:**

Obtain diplomatic immunities and privileges for you as specified under the Vienna Convention on Diplomatic Relations 1961 or the Vienna Convention on Consular Relations 1961.

Offer you terms and conditions of employment which do not conform to local employment legislation.

## **20. Crises and Post Evacuation**

Posts' Business Continuity Plans must include Local Staff. In the event of a crisis, Posts should follow Crisis Management Department's guidance which includes steps to take to ensure the welfare of all staff.

Once a crisis is declared, all staff and their families should be made aware of the situation. Posts should organise a full check of all staff, spouses and dependants, using tannoys and telephone trees. Any changes to Travel Advice, and public information on the incident, should be communicated to staff and dependants.

If a Post is affected by a major incident, HR Directorate will be involved from the outset in helping and supporting staff and families. This will range from ensuring that the injured get quick and effective treatment, to arranging financial settlement for losses suffered. Any reasonable claims which are not covered by insurance may be covered by HMG, on a case by case basis. The Employee Assistance Programme will also be ready to help.

Posts should consider having a Local Staff member TRIM trained to allow Local Staff to be able to talk to someone in their own language/from their own background at times of crisis.

When UK-based staff are evacuated back to the UK from Post, Local Staff are not included in the evacuation, because of their different Terms and Conditions of Service (but see section 21).

If a Post is closed, and UK-based staff evacuated, Local Staff should be paid for up to three months. If it is likely that the post will re-open in less than six months, key Local Staff should be kept on full pay. Redundancies of non-essential staff should follow Post's redundancy procedures. Local Staff discharged because of a break in diplomatic relations should be paid their terminal benefits. If they are re-employed, aggregation of service may later be allowed for eventual terminal benefits.

## **21. Third Country Nationals**

The FCO will make sure that Local Staff who are British nationals (and their spouses and dependants) are covered by Post Crisis Management Plans or other evacuation plans.

In the event of rising tensions or a slow burning crisis, when Post consider their staffing profile, consideration should be given to advising Local Staff who are third country nationals (TCNs) to make their own arrangements to leave for a place of safety. In the first instance TCNs should follow the advice of their own Governments, or the host Government, and be registered with their country's Embassy/Mission. Where this is not possible, Posts should look at providing what help is possible under the circumstances. In this regard Posts should also consider in their evacuation plan what help is possible under the circumstances for Local Staff who are TCNs. Whilst Posts need to consider their staffing needs in order to provide a crisis response, they should also be mindful as employers of their duty of care not to put their staff at risk. Posts may also include TCNs in their evacuation plans to be taken to a place of safety. In these cases, advice and agreement should be sought from HRD, Crisis Management Department and the Geographical Directorate before opting for this solution due to funding and/or immigration requirements.

## **22. Honorary Consulates and their Local Staff**

Local Staff working at Honorary Consulates should be treated in exactly the same way as Local Staff working at other Posts. Their managers should take all the above Duty of Care considerations into account, as they would for Local Staff working in other consular offices.

**Annex A: Travel Clearance Application/Risk Assessment form for travel to PHPs**

**Annex B: Local Staff Consent Form for Travel to PHPs**

### **Annex C: Standard Exclusions in Local Staff Medical Schemes**

- Abortions and treatment for infertility
- Dental and optical treatment
- Hearing aids
- Sexually transmitted diseases
- Maternity treatment including confinement
- Drug or alcohol induced illness
- Self inflicted injuries
- Rest cures
- Mental or emotional illness
- War injuries
- Cosmetic or plastic surgery
- Inspections and courses of treatment for chronic illness
- Hospitalisation: personal care items, cafeteria expenses, spare bed for companion
- Obesity treatments
- Baldness cures
- Sport or dangerous activity injuries

**Annex D: Guidelines for Local Staff Whilst in the UK**

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