



House of Commons  
Home Affairs Committee

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# Follow-up to the Gurkha Inquiry

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**Oral and written evidence**

**9 March 2010**

*Mr Tim Heaver, Solicitor representing Gurkha veterans; Mr Kevan Jones MP, Minister of State for Veterans, Ms Margaret Gilmour, Assistant Head Land Forces Secretariat, Ministry of Defence, Mr Jonathan Sedgwick, Deputy Chief Executive, and Mr Lawrence Springall, UK Border Agency*

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## The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

### Current membership

Rt Hon Keith Vaz MP (*Labour, Leicester East*) (Chair)  
Tom Brake MP (*Liberal Democrat, Carshalton and Wallington*)  
Mr James Clappison MP (*Conservative, Hertsmere*)  
Mrs Ann Cryer MP (*Labour, Keighley*)  
David TC Davies MP (*Conservative, Monmouth*)  
Mrs Janet Dean MP (*Labour, Burton*)  
Mr Khalid Mahmood MP (*Labour, Birmingham Perry Barr*)  
Patrick Mercer MP (*Conservative, Newark*)  
Margaret Moran MP (*Labour, Luton South*)  
Gwyn Prosser MP (*Labour, Dover*)  
Bob Russell MP (*Liberal Democrat, Colchester*)  
Martin Salter MP (*Labour, Reading West*)  
Mr Gary Streeter MP (*Conservative, South West Devon*)  
Mr David Winnick MP (*Labour, Walsall North*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

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### Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Eliot Barrass (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Petit (Committee Specialist), Darren Hackett (Senior Committee Assistant), Sheryl Dinsdale (Committee Assistant) and Jessica Bridges-Palmer (Select Committee Media Officer).

### Contacts

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# Oral evidence

## Taken before the Home Affairs Committee on Tuesday 9 March 2010

Members present

Keith Vaz, in the Chair

Tom Brake  
Mrs Ann Cryer  
David T C Davies  
Mrs Janet Dean  
Gwyn Prosser

Bob Russell  
Martin Salter  
Mr Gary Streeter  
Mr David Winnick

*Witness:* **Mr Tim Heaver**, Solicitor representing Gurkha veterans, gave evidence.

**Q1 Chair:** We are taking a very short look at the Committee's report and inquiry into the Gurkha issue. The report of the Committee, as members will know, was accepted in full by the Government and implemented in full by the Government, and we are looking at the follow-up as to what has happened since. We have as our first witness Mr Heaver. You were going to be accompanied by a Gurkha veteran, I understand.

**Mr Heaver:** Yes, Chair, I was. Unfortunately, because of the nature of some of the things that are going on, the individual ex-Gurkha who had initially agreed to attend with me has declined to do so quite late in the day for fear of what might happen to his son who remains in Kathmandu.

**Q2 Chair:** Let us begin by asking you about reports we have heard of the existence of agents who are advising Gurkhas in Nepal, raising expectations and charging them enormous amounts of money. Are these reports accurate? Is this, in fact, what is happening?

**Mr Heaver:** The reports would appear to have foundation in fact, so yes.

**Q3 Chair:** And how widespread is the issue?

**Mr Heaver:** I would not like to say how widespread, but certainly one particular organisation until very recently was certainly telling people that if they did not make the application through that organisation the application would be refused and they would have to make a donation of £500 in order to see that organisation's solicitors who would make the application on their behalf.

**Q4 Chair:** Is there any indication that those agents are connected to any solicitors or agents in the United Kingdom?

**Mr Heaver:** They were certainly working with Messrs Howe & Co, and I must stress that there is nothing to indicate—

**Q5 Chair:** Sorry, they were working with whom?

**Mr Heaver:** They were introducing Gurkhas to Howe & Co, but I must stress there is nothing to indicate that Howe & Co have done anything improper. I was handed copy emails this morning to

say that Howe & Co raised this matter with the Legal Services Commission in June last year and the Legal Services Commission appear to have given the advice that they do not want clients paying any organisation for a referral for services that they are or may be entitled to under the Access to Justice Act. Other than that I do not think there is much we can do from here in the UK. There is a problem inasmuch as the only UK regulatory organisation that works in Nepal is the Solicitors Regulation Authority and I am not aware that they have ever been to Nepal.

**Q6 Chair:** The English Solicitors Regulation Authority?

**Mr Heaver:** An English solicitor is regulated by the Solicitors Regulation Authority—

**Q7 Chair:** Yes, I am aware of that.

**Mr Heaver:**—wherever in the world they operate as an English solicitor.

**Q8 Chair:** Oh, I see.

**Mr Heaver:** The Office of the Immigration Services Commissioner has no extra territorial jurisdiction, so with any immigration matter there are always local agents charging money for services and those services are not necessarily proper, legitimate or—

**Q9 Chair:** But do you have some hard evidence from people prepared to say to this Committee, or indeed to the Government, "This is what is happening", or is it just anecdotal?

**Mr Heaver:** I can certainly give what would amount to hearsay evidence from members of my family who are Nepalese ex-Gurkhas who have gone along to GAESO in the understanding that they had to, have paid £500 per applicant to GAESO on the understanding that they had to, and have then been introduced to Howe & Co. Howe & Co have acted within the legal aid—

**Chair:** That is very helpful. Perhaps you would let the Clerk of the Committee have at the end of this session copies of those emails. That would be very helpful.

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**Q10 Martin Salter:** Mr Heaver, I want to personally also put on the record that I have had contact from Howe & Co who have absolutely assured me that they have moved out of the GAESO premises and have at no point taken money unscrupulously. I think we should put that on the record because what we are actually talking about here, are we not, is agents, middlemen operating in Nepal in this kind of unregulated vacuum that appears to exist out there and also in the gaps that fall between the various organisations that seek to represent the wider Gurkha community? Is that not the nub of the problem in that it is almost like *Life of Brian*, we are trying to deal with five or six different organisations in an unregulated framework with quite a rush of people wanting to take advantage of the Government's belated conversion to the Gurkha rights cause?

**Mr Heaver:** Certainly there are many organisations that exist for former Gurkhas. They are all to some extent rivals and compete. Certainly the organisations do sit down and talk and work together. Others do not. The Gurkha Army Ex-Servicemen's Organisation, who are, from what I am hearing, the main culprits in demanding money will not sit down with anyone. We have a large contingent from BGWS who are to be commended because they have sat down in the past with other Gurkha organisations. Sadly, without GAESO the unity of Gurkha organisations is not possible and GAESO to that extent can be a very disruptive organisation, whether intentionally or otherwise.

**Q11 Martin Salter:** Would it be possible for UKBA not to process applications that have come through middlemen or where people have been exploited? Is it possible to have physical measures that would stop people being conned in this way, into handing over hard-earned cash which in many instances represents a year's salary for a service which is provided free by the MoD in Kathmandu? Is there any mechanism that we could recommend the British Government adopted?

**Mr Heaver:** Realistically I cannot see what can be done. The application form itself has a section towards the end of it asking, "Who has helped you fill in the form?" If that is completed properly that would possibly be the only way you could see if a middleman had helped.

**Martin Salter:** Perhaps that should be at the start of the form.

**Q12 Gwyn Prosser:** Mr Heaver, the MoD have told us that their Resettlement Office in Kathmandu goes to some lengths to explain that they have a free service, in other words there is no need to go outside and pay any fees. Are they doing a sufficiently good job in this respect and what else can they do?

**Mr Heaver:** There are a couple of points. First, there are some ex-Gurkhas who feel very angry and let down by the MoD and who, quite frankly, whatever the MoD do, will never use an MoD sponsored organisation because they will never believe that they will get proper help.

**Q13 Gwyn Prosser:** Really?

**Mr Heaver:** That, unfortunately, is the basis of the formation of all the ex-Gurkha groups. If the Gurkha Resettlement Office was offering perfect advice and a perfect service there would still be people who did not want to use it. Then there is the issue that simple straightforward applications should really go to the Resettlement Office. There is no need for legal advice or legal assistance; it is a straightforward application. With adult dependants, which is the hard end of the cases, the Gurkha Resettlement Office do not like to even take those cases, so there is an issue there because most Gurkhas want to settle here, at least in part, for the sake of children and in some cases it is only for the sake of children. With GAESO spreading the word that any adult child can come here there will be a large number of bad applications that with no amount of help, legal or otherwise, will get here.

**Q14 Gwyn Prosser:** Mr Heaver, you might remember that at the round table meeting we had last May, which made great progress, I think, with regard to these issues, our friends from the Gurkha groups indicated that they were more than pleased to set up a Resettlement Board to help with the receiving and integration of families, et cetera. Have any developments taken place here?

**Mr Heaver:** Not really. Because of the Gurkha politics involved a large number of the community Nepali groups have not engaged independently and largely it is the MoD leading the resettlement effort.

**Q15 Gwyn Prosser:** And that is bad, is it?

**Mr Heaver:** Not necessarily. Why would that be bad?

**Q16 Gwyn Prosser:** So how can they make progress?

**Mr Heaver:** The Gurkhas themselves need to sit down within themselves, within their community. They need to decide what is good, what is bad, and then they need to move on, and that is a long time awaited.

**Q17 Chair:** Sorry; did you say that they need to sit down and decide what is good and what is bad? This sounds rather like a discussion on Marx and Engels. This Committee has made a recommendation. The Government has accepted the recommendation in full. What is going wrong is practical implementation, is it not, so what do you think should happen rather than having discussions on good and evil? What is the way forward? That is what this Committee needs to know.

**Mr Heaver:** The Gurkhas themselves need to agree what is acceptable and what is not acceptable. There needs to be full and proper disclosure of information to those Gurkhas in Nepal and their families who may wish to come here. I had a client come to see me last week whose uncle was 84 years old and his nephew was keen to come to this country, even

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though he is in his thirties and is married with children, because they had been given the impression that it would be possible, so they want to do it. It is not going to be possible; they should not even be thinking about it.

**Q18 Tom Brake:** Mr Heaver, first of all could I put a difficult question to you? It has been suggested to us that on the Law Society's records you are not down as a registered solicitor. Can you explain that?

**Mr Heaver:** I retired as a solicitor some years ago through ill health. I work for a firm of solicitors. I do not exercise any of the functions that you need a practising certificate for.

**Tom Brake:** Okay. Can I also ask you, as far as it is possible, to say what particular Gurkha faction you represent, because you cannot see the body language of some of the people sitting behind you, but I can, which indicates that the responses you are giving to lots of these questions are not necessarily terribly representative of the Gurkha community, so which particular group do you represent?

**Chair:** Before you answer that question, unfortunately, Mr Brake, the body language of people in the public gallery is not evidence.

**Tom Brake:** It is anecdotal perhaps.

**Q19 Chair:** Mr Brake, this is to get evidence. Mr Heaver, perhaps you could answer Mr Brake's question not in relation to the body language of people in the public gallery, who do not exist for the purposes of this discussion, but in terms of the intonation behind what Mr Brake is saying.

**Mr Heaver:** My background with the Gurkha organisations is that I was one of the founders of the British Gurkha Welfare Society. I was its founding secretary. I was formerly a committee member of the Gurkha United Forum, which was a group that was aiming to unite everybody. I have been legal adviser to the United British-Gurkha Ex-Servicemen's Association. I represent a large number of Gurkha and Gurkha family member applicants for settlement, and my wife's family going back several generations are Nepali Gurkhas.

**Chair:** Yes, Mr Heaver, I think we accept that is why you are a witness.

**Tom Brake:** I will come on to my specific question. Obviously, at the point where discussions were taking place about Gurkha rights and how many Gurkhas would come to the UK, some speculative figures were put forward. What is your assessment of how many have actually taken up the offer of settlement?

**Q20 Chair:** Before you answer, can you remind us, in answer to Mr Brake, what was the estimate?

**Mr Heaver:** The estimates varied. I think I said up to 250,000. In the end I think we settled on—

**Q21 Chair:** So what did the Government say?

**Mr Heaver:** I think we settled on about 15,000. From what I can make out there are possibly 5,000 Gurkhas who retired after July 1997 and not many

more than 2,000 who retired before whose applications were pending, and a very modest number in addition to that.

**Q22 Chair:** So it is about a third of what we expected?

**Mr Heaver:** We are certainly talking about well under 10,000 that I am aware of.

**Q23 Tom Brake:** Is there any evidence that perhaps the bulk of applications has now happened and the flow has reduced, or is this the first wave of future waves? How do you assess what is likely to happen in the near future?

**Mr Heaver:** Given the saturation of Nepal and the information that has gone on about, "Yes, you can apply; please do so", I cannot see that we are looking at any great flood now. I would have thought there may be a slight trickle once the backlog, which is still there, is worked through.

**Q24 David Davies:** Mr Heaver, you will be reassured to know that the body language of Monmouth Comprehensive is of entire interest in the Committee's proceedings. Can I suggest to you that there have been a lot of good intentions here, lots of celebrities involved in this campaign and many people have gone along with this, but the reality has been that Nepalese citizens, some of whom have not even been in the Gurkhas themselves, many of whom do not speak English properly or have any transferable skills, have come to Britain thinking that the streets are paved with gold and ended up in rotten, mildewed flats trying to eke out a living on benefits, and they have had to borrow money in order to do so. They are the victims in this, and the only people who seem to be making money are, with the exception of yourself perhaps, solicitors in both Nepal and Britain.

**Mr Heaver:** I have certainly seen newspaper reports stating that there are former Gurkhas living in abject conditions. There is certainly an issue that the older Gurkha, who does not necessarily speak English particularly well, will come here and will have difficulty finding work. The answer to that is possibly education both in letting them know before they make the decision to come here that work is not guaranteed, quite the opposite, and education inasmuch as teach them English so that when they arrive here they are in a better position to get work.

**Q25 Chair:** In answer to what Mr Davies has put to you, we did suggest as a Committee that there ought to be something equivalent to the Uganda Resettlement Board. If you will recall when the Ugandan Asians came in 1970 there was a group here. Forget about the disputes in Nepal. There was a group here that could help them resettle. Did this ever happen?

**Mr Heaver:** It has not, no.

**Q26 Chair:** Because Ms Lumley, I think we suggested, might like to be taking the lead on this.

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**Mr Heaver:** It has not happened.

**Q27 Chair:** What has become of Ms Lumley in terms of your campaign?

**Mr Heaver:** You talk of my campaign.

**Q28 Chair:** The general campaign.

**Mr Heaver:** Ms Lumley currently is maintaining a dignified silence. I think she is very embarrassed by the revelations and does not really know what to say.

**Q29 Bob Russell:** Mr Heaver, the victory for the pre-1997 Gurkhas was one of those great parliamentary occasions, and it was in tune with the mood of the country at large. Therefore, as somebody who was heavily involved in that parliamentary campaign, with the Ten-Minute Rule Bill and the rest of it, I have to tell you and others who may be reading the proceedings that I am dismayed to hear of the disunity amongst the former Gurkha community. If anything comes out of today's proceedings I trust there will be a healing of wounds and there will be a coming together so that everybody is singing from the same song sheet because I do not think this is what I envisaged, nor indeed what the British public envisaged, when we won this great parliamentary campaign, that there would then be this disunity subsequently.

**Mr Heaver:** There are always political differences. However, we are talking about fundamental basics and one would hope that there is something good in terms of unity that could come from this.

**Q30 Bob Russell:** I sincerely hope so because that does not please me. To your knowledge, how long are applications for settlement under the new rules taking to decide?

**Mr Heaver:** Because of the backlog applications made overseas can take several months. I certainly have a gentleman that I deal with on a daily basis whose wife and two children applied in August last year and they are still waiting in the queue, so it can take a considerable length of time overseas. I have to say the Home Office here, UKBA, are bending over backwards. They are phoning to check. It is difficult to heap enough praise on them.

**Q31 Bob Russell:** So, other than the sheer volume, have there been any problems that have emerged with the application process?

**Mr Heaver:** Not really. It is just volume related. There will always be the odd hiccup, but that is in the nature of things.

**Chair:** Mr Heaver, thank you very much for giving evidence to us. If you have any further information that you think will be helpful please do let us know because the Committee will be, I am sure, very keen to follow up on these matters.

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*Witnesses:* **Mr Kevan Jones MP**, Minister of State for Veterans, **Ms Margaret Gilmour**, Assistant Head Land Forces Secretariat, Ministry of Defence, **Mr Jonathan Sedgwick**, Deputy Chief Executive, and **Mr Lawrence Springall**, UKBA, gave evidence.

**Q32 Chair:** Minister, thank you very much for coming to give evidence to us today. This is a very short inquiry and I would like at the outset to thank you and your officials for the courteous way in which you and they have always dealt with this Committee over this issue. We are very grateful for all that you have done. We are very concerned, however, with the evidence that we have received so far, not just from Mr Heaver but also in your very helpful letter of today's date to Lord Bach and copied to me, which the Committee have just had an opportunity to read, about the situation following a report in the *Daily Mail* concerning these matters. Are you disappointed with what has happened since the Government accepted the recommendations of the Select Committee on this issue?

**Mr Jones:** Having visited Nepal myself, and having immersed myself in the subject for the last year or so, I am not surprised. I am disappointed that certain organisations that I think are purporting to be on the side of Gurkhas are now allegedly simply exploiting them. I am also quite disappointed that some of the loud voices at the time that championed the change in policy now remain very quiet on this subject. There are three points, with your permission, I would like to make. The first one is that I think we can be proud of the cross-government work we have done to put in place the Gurkha Resettlement Office in Kathmandu. My key message is that the help is

there and we encourage people who are considering settling to use that facility. The second point is to deplore anybody, unscrupulous agents, whether they be lawyers or individuals, who are exploiting individual Gurkhas. The third point is I would stress that in terms of what we have put in place it is imperative for anyone who wants to come and settle that they make that choice and decision on an informed basis.

**Q33 Chair:** We will explore each of those points with questions but I wanted to get an overall feel. The Government obviously made a very tough decision in accepting the recommendations of this Committee and faced embarrassment at the time in the House of Commons with the vote that went against it. Given the whole nature of the campaign and the way in which governments work, it must be a concern to you that it has not gone precisely as envisaged, not because of the Government, on this occasion the Committee is not blaming the Government.

**Mr Jones:** I think I can be justly proud of my own Department. Margaret and her colleagues have worked very hard in terms of making sure that we have put in place the support for Gurkhas, but I have also got to pay credit to colleagues across government who have worked very closely on this, and also in this country local councils who have

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stepped up to the mark. I would like to put on record Rushmoor, Kent, Reading and Greenwich, which have all worked very closely with both the MoD and other government departments to ensure that when people do come here, if they have made that informed choice and they use the system, the process is as seamless as possible. Could we have done more? No, I do not think we could in such a short period of time. What I think we need to do now is ensure that if people are coming to settle they use the systems we have put in place, and I would actually plead to certain people that were leading the campaign that they could be very helpful in reinforcing that message and also distancing themselves from certain organisations.

**Q34 Mr Winnick:** It might be said, Minister, that it is not so much an embarrassment to you or your ministerial colleagues but to those who fought a very honourable campaign on behalf of the Gurkhas and then found the situation which the Chair has just been speaking about, and he has also referred to the letter which you wrote to the Parliamentary Under-Secretary of State in the Ministry of Justice about the unscrupulous agents, these shysters, and there is no other word to describe them, who are exploiting the Gurkhas in the way we have been hearing about. How many of the Gurkhas would you say have been adversely affected by these people?

**Mr Jones:** It is difficult to put a number on it, and I will look to Margaret in a minute, but I met the Gurkha charities last week to talk through some of their cases, the more horrendous ones, with people, for example, turning up at Veterans Aid with no support whatsoever, which, frankly, appals me. I think officials are also quite appalled because the system is in place. The system is there. If people use it, it will actually work.

**Ms Gilmour:** I agree. I think it is very difficult to say how many have been affected by using unscrupulous agents. Certainly the numbers that are coming through in terms of destitute or welfare cases are quite small, around 120 so far, and, indeed, quite a lot of those will have been people who got their visas in the early stages, after May, before the Gurkha Settlement Office was set up, and were not prepared, and it is very clear from talking to them all that the vast majority, apart from a dozen or so, have not been through the Gurkha Settlement Office and we have got evidence that they have paid money to agents who gave them misinformation. They have told us that.

**Q35 Mr Winnick:** The important point, Minister, Ms Gilmour, is that the Government has set up the Settlement Office in Nepal and, as you say—I quote your letter, Minister, to your ministerial colleague—“It is, therefore, not clear to me why public money, in the form of legal aid, is being drawn by third parties when a publicly owned MoD service is already available and is free at the point of use.” That does seem to make the position perfectly clear that there is an office, funded by British taxpayers, to help the Gurkhas in getting advice, and the rest of it, about coming to the UK.

**Mr Jones:** I had a telephone conversation this morning with Lord Bach, who has actually said he has now started an investigation into the operation of any UK lawyers there.

**Q36 Mr Winnick:** He started this week?

**Mr Jones:** He started that in response to the letter. He will obviously report to you once he has more information.

**Q37 Chair:** On what basis does a minister start an investigation into a firm of solicitors?

**Mr Jones:** It is not a firm of solicitors. He has asked his officials to look at the practice, not any specific firm of solicitors but actually what is going on, what is happening. I will be blunt on this point. I think you have heard from Mr Heaven, there are certain organisations. He has referred to GAESO as an example of one which allegedly is asking for money. We have got to try and get the message across to people to use the Settlement Office.

**Q38 Chair:** We will come on to the Settlement Office in a minute. This is specifically on the agents.

**Mr Jones:** I think this is a point worth making. I actually made it to the Gurkha Welfare Trust last week. The high profile visit of Joanna Lumley actually has given that organisation credibility in Nepal, and I think there is an onus on her now to try and reinforce the message to people, Gurkhas and organisations, first, not to pay money and, second, to use the system we have set in place. A deathly silence, frankly, irritates me.

**Q39 Mr Winnick:** It is not a matter for the UK, but are the local police in any way involved, as far as you know?

**Ms Gilmour:** We understand from a disclaimer put out by GAESO that an investigation is taking place, and we have made some inquiries with the Defence Attaché to ask what is happening with that investigation.

**Q40 Mr Winnick:** It is co-ordinated so far as is possible?

**Ms Gilmour:** Yes.

**Mr Winnick:** To stop the practice.

**Chair:** Thank you. Tom Brake.

**Q41 Tom Brake:** Minister, you have used a number of times the word “allegedly”. Are you personally aware of any cases where you could go on record saying that a particular firm has extracted money in a way that you think is completely unacceptable?

**Mr Jones:** I had a meeting with the service charities who have got actual cases of people who have been asked for money by various organisations. I think there are two separate issues. There is one issue about charging for advice, which frankly is free anyway. There is another issue which concerns me, which is the management of expectations. There are, for example, I think, organisations suggesting that Gurkhas can apply for settlement here and bring in over-18 dependents and that they will fight their case. That is actually about getting over to the

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Gurkhas what the actual settlement deal was. At the time the campaign was to be treated just like any other Commonwealth soldiers, and that is exactly what they would have been. I think raising expectations amongst certain sectors that you can actually bring family members in over 18 is something that also concerns me.

**Ms Gilmour:** I agree with what the Minister has said. We have got specific cases with names of people who have made allegations who are on our welfare books. For confidentiality reasons we clearly would not make those names available, but I can go on record to say I have transcribed evidence from welfare officers that allegations have been made by these people that they have had to pay money.

**Q42 Tom Brake:** Minister, if subsequently it is proven that are UK lawyers were, in fact, charging for advice that is free, what do you expect those UK lawyers to do: pay the money back?

**Mr Jones:** As people know from my great campaign on miners' compensation and the dim view I take of lawyers taking money from people that do not need to, yes, they should and, frankly, they should stop the practice forthwith. Obviously, Lord Bach's investigation into those practices, if it does find cases, I think it would be a case for the new Legal Complaints Service.

**Tom Brake:** That is very clear.

**Chair:** Thank you very much, Mr Brake. Martin Salter.

**Q43 Martin Salter:** Minister, there are two members of this Committee who are officers of the All-Party Parliamentary Group on Gurkha Rights, myself and Mr Russell, and neither of us are going to fight shy of dealing with the difficult issues that have, unfortunately, arisen as a result of the change in settlement guidelines for the Gurkhas. We are pleased to be part of trying to find a solution and not just running away from it. This issue that you raised of the definition of "dependents", 18, I think, under current UK legislation but interpreted certainly in Nepalese culture as almost any member of the extended family: the fact that applications are being put through shows that not only is it wrong when people take money for advice but the quality of the advice is deeply suspect. Do you not think there is now a role for perhaps the Foreign and Commonwealth Office to have some bilateral discussions with the Nepalese Government over the whole issue of the accuracy of advice and also the regulation of immigration advisers in Nepal: because, as we heard from Mr Heaver, the British system of supervising solicitors cannot reach into another nation state but it is causing problems for both the Gurkha families and for us back here?

**Mr Jones:** I will let UK Borders deal with variants round the 18, but one thing I will say, and I said it earlier, and I do not like to say I told you so—

**Q44 Martin Salter:** I think you do.

**Mr Jones:** I do actually.—is that on this issue last year when I visited Nepal one of the biggest issues which a lot of the older Gurkhas wanted was not

actually settlement rights for themselves but for their families, and I think that is still in people's minds. We changed the policy, quite rightly, as you say, as the Chairman said, in response to the vote in Parliament. There are mixed messages that are being sent in terms of what this actual settlement is. I have got to say, that is the history of this entire subject, and I have got to say that, if some of the strong advocates of it actually understood not only Nepalese society and how it operates but also this issue in depth, it would have helped.

**Mr Sedgwick:** The Minister is absolutely right in relation to over-age dependents. Those over 18 do not have an automatic right of settlement in the way that, obviously, Gurkhas themselves do, but the complexity is that some over-age dependents could be successful in their applications. It would depend on whether they are genuinely dependent and have been living in a way that is genuinely dependent on the main applicant, and we will take into account factors like whether they have independent income, whether they have worked, an independent family life, whether they have lived separately, and so on, but there will be some, indeed, we have granted a number of over-age dependents settlement. We have also refused rather more, and it is obviously important that people begin to see, as the decisions are taken, a kind of pattern in that. We will be shortly revising the information leaflet that we have provided on life in the UK and we think that the whole issue of over-age dependents is one where we could be a bit clearer in that leaflet too, for precisely the reasons you are suggesting.

**Q45 Martin Salter:** Can I come back on the Minister. Would you take up our suggestion of making some representations to the Foreign and Commonwealth Office? There is clearly a need to open up some direct negotiations with the Government in Nepal on this issue. Do you not agree?

**Mr Jones:** I think that is important, but the other issue is: is there an area of distrust in Nepal of government? Yes, I think there is, whether it be ourselves or the Nepalese Government. I think the important thing, on which we had a meeting last week with the Gurkha charities, is how we can work with, for example, Gurkha Welfare, who have got a very good reputation there, in actually pushing some of those messages out, but I will certainly take on board anything. Can I also stress the co-operation across government on this piece has actually been, I have to say, a good example of everyone coming together, including the Foreign and Commonwealth Office.

**Q46 Bob Russell:** Minister, following that up, do you think it would be absolutely fabulous if the Minister of Defence did more to publicise the existence of the Gurkha Settlement Office in Kathmandu?

**Mr Jones:** We are doing that, and we have also, with the Gurkha Welfare Trust, been out to both the East and the West, because I think what we have to recognise is the difficulty putting the messages out through those organisations over long distances. But

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if you want a direct answer to your question, “Would be helpful if Ms Lumley now quite clearly explained the system?”, yes, it would.

**Q47 Bob Russell:** The reason I ask that is because if we could get the veterans advised of their rights in the way that you and I are subtly suggesting, and also involving the Gurkha welfare organisations as well so that everybody is on board—and we have had some quite distressing evidence earlier on about the disharmony, shall I say, in the Gurkha community—would that not be helpful? Could we get everybody to take a step back and say, “Where can we unite?”, with the office in Kathmandu being the central point for that?

**Mr Jones:** We are actually doing that. I will let Margaret explain exactly what we are doing in country, which is important. You have got copies of the leaflets, and things like that, but when I met the Gurkha welfare organisations last week, there is a strong determination to ensure that we explain it and a clear determination that people should use the system. I think one of the key problems is that if people use the system, they can get the National Insurance number and when they arrive the process, I think, is working very well, and that is the important point, but Margaret referred to the fact that to date it is perhaps small numbers. We do not know, but I have got to say, when I hear some of the distressing cases from, for example, Hugh Milroy from Veterans Aid, when you have elderly mentally ill veterans turning up expecting that a house and everything else will be available, whoever advised them or took money off them to do that, frankly, it is a disgrace.

**Ms Gilmour:** In terms of communications, when we opened the office up in the summer of last year we did a big communications exercise and, indeed, in the five months that it has been open we have had nearly 4,000 visits. As a result, some people have decided not to fill out a visa application, and so the benchmark of our success is not necessarily how many visas there are. We have put out an awful lot of information. We have had three visits and the Borders Agency have been to Nepal with me, visited Nepal extensively. They do come together, the ex-service organisations. They meet with us, and GAESO have been at some of the meetings, which were attended by the range of ex-services and the regimental associations. They are at one in wanting people to have proper and accurate information to make a decision and, once they have made the decision, to be given every help to facilitate a fast-track arrangement.

**Q48 Bob Russell:** Despite the fragmentation we are hearing about within the Gurkha community, when it comes to the Kathmandu Ministry of Defence Office there is a unity of purpose?

**Ms Gilmour:** I would say that the fragmentation is internecine rivalry between the associations. When it comes to settlement, they all want the same thing. They want Gurkhas to be given the right

information at the right time on settlement, and I would say that does not just apply in Nepal, it applies in the UK as well.

**Bob Russell:** That is reassuring. Thank you.

**Q49 Gwyn Prosser:** Minister, can you give us a feel of the extent, the number of agencies or solicitors, some people call them rogue solicitors, or alleged rogue solicitors, who are acting in this way? Is it half a dozen or is it much more than that?

**Mr Jones:** The one example that I have referred to, as Margaret said it is not just solicitors, it is actually other people taking money, but I think it is referred to in the pack we sent you in advance, is Howe & Co, for example. As I understand how the system works, you go to GAESO, a voluntary donation is made of about £500 before you then get passed on to Howe & Co. I am not sure what the relationship is between Howe & Co and GAESO or whether there is any financial regulation—I do not know—but I think you have also got to take a step back to last year and it is about credibility, and that is where people, I am sorry, cannot just walk away once the headlines die down. Howe & Co were the solicitors arguing for the campaign, along with Joanna Lumley, and, I think, in terms of their position, any advice they are giving or relationships with GAESO are important. GAESO, I understood, organised the victory tour for Joanna Lumley to Nepal. You have got to look at this through the eyes of people in Nepal, and if they are seeing organisations which have credibility are then asking them for money, you can understand why they possibly do that. I think what we need to do is make sure that we get those messages over. Frankly, those people that campaigned for this, there is a role for them now to actually explain and encourage people to use the system we have put in place.

**Q50 Gwyn Prosser:** Ms Gilmour gave the impression, “We know who you are.” In other words, you know who has been involved in these practices, but they cannot be revealed for obvious reasons. Is anyone in a position to actually publicise a list of what you would describe as reputable agents, or solicitors, to give some confidence to people?

**Ms Gilmour:** I am afraid I could not comment, because I would not know if there is a list of reputable agents.

**Q51 Gwyn Prosser:** You could not make your own judgment using your agents in Nepal?

**Mr Jones:** The point I would make is that you do not need a solicitor to take up a refused settlement issue. There are two issues. We have a system in place there which does not need anybody to charge anything, and that is the main point. The other point, which I think is perhaps a growing area, is this issue Mr Sedgwick referred to about over-18s. I think there are people suggesting to people, “Sign up with us and we will help get the rest of your family in.” We have made those messages quite clear, and certainly the UK Borders Agency have when they have been out there, what the actual settlement means. It does not mean that the entire extended family is going to

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come with you, except, obviously in exceptional circumstances such as carers. I do not know whether Mr Sedgwick wants to say, but there are going to be some applications that will be refused soon.

**Chair:** Mr Sedgwick, you have been sitting very patiently. It is your turn. We had your chief executive here last week, and perhaps you could remind her, we asked for some information by midday tomorrow. It would be most helpful if we could have that information.

**David Davies:** Can I ask one other question to Mr Jones a minute on this topic?

**Chair:** Yes, so long as it is quick.

**Q52 David Davies:** The question is, roughly does it cost about the same to maintain a brigade of Gurkhas as a brigade of other infantry men in the British Army? If it is about the same, or possibly even slightly more now, are there not going to be a lot of calls following this, given the shortages of money that there always are in Government, for us to actually stop recruiting Gurkhas and perhaps use the money that we are currently now going to be spending on pensions for people who may or may not have been in the Gurkhas to train British troops?

**Mr Jones:** I think I answered this question last time I came before you. The fact of the matter is that we have no current plans to change or disband the brigade of Gurkhas, but, clearly, in terms of this Government or any future government, the costs of the Gurkha or any other are always going to be taken into consideration.

**Q53 David Davies:** Is it still a bargain for us?

**Mr Jones:** It never was a bargain.

**Ms Gilmour:** The cost of maintaining the Gurkhas is largely the same as the wider Army. Although they are trained for longer, their retention is better and they represent value for money.

**Chair:** If we could have something in writing, it would be very helpful. Mr Davies on applications for settlement.

**Q54 David Davies:** How many applications including dependents have been received from the group affected by the policy change since last May, and is it about the rate that you would have expected?

**Mr Sedgwick:** At the time of your hearing and the new policy announcement last May, we had got about 1,900 applications either stayed or in the appeal system. Since then we have had 5,000 new applications. Around a thousand of those are Gurkhas themselves and the remainder are dependents. Although we have not obviously had a full year, it is perhaps a little lower than some of the estimates that were being discussed.

**Q55 David Davies:** Is it possible to say roughly how many of those dependents, if I can use that phrase, are under-18 year old direct children of Gurkhas and how many are actually nephews, second cousins three times removed or other people who have got no real connection with the Gurkhas whatsoever?

**Mr Sedgwick:** Of the applications we have had, around 1,000 are from under-18 year old children and just over 1,000 are other dependents. I have seen quite a number of cases. The vast majority I have seen have been over-age dependent children, not any other form of dependents.

**Q56 David Davies:** Have there been thorough checks on birth certificates and possibly with DNA, because obviously it is an unfortunate fact that in some countries like Nepal it is very easy to get false documentation. How do we actually know that some of these dependents are who they say they are?

**Mr Sedgwick:** Part of our process is always now around biometric visas before individuals are resettled from overseas or come on visas overseas to the UK. We undertake checks through the Kindred Roll that the MoD holds and extensive documentary checks on individuals and their families. We take evidence about, for example, the work or educational qualifications and experience of over-age dependents. We have not done any DNA checks, but we do take very sensitive documentary checks and, as I say, we rely very heavily on the Kindred Roll, which is very complete and accurate.

**Q57 Mrs Cryer:** Further to the reply you have just given to Mr Davies, how do you determine whether a child or an offspring is 18 or over, or under, or whatever?

**Mr Sedgwick:** The Kindred Roll would be the primary source of evidence that we would use. That is the main way of testing.

**Q58 Mrs Cryer:** Would I be right in saying, according to my experiences on immigration cases in Keighley, that more or less the only people who are going to get through this net other than dependent children under 18 are going to be perhaps mums and dads of Gurkhas who have been bereaved? If that is the case, this is a very simple message. It is not rocket science. You should be able to get this sort of message out to them, that it is either kids under 18 or, possibly, if you have a mum or dad who has been bereaved and is alone, they may be regarded as a dependent relative. Is that the sort of message that we are getting out to the people in Kathmandu?

**Mr Sedgwick:** As I said a moment ago, I think we obviously do see the need in our next edition of the leaflet to get some clearer messages out there about over-age dependents. There are some occasions when we will grant, and we have granted a small number of over-age dependents who plainly are part of family unit and dependent. For example, you might have a 12 year old, a 14 year old and a 19 year old who are all part of a family unit, the 19 year old in education, where it seems entirely proper to keep the family together; so there will be a number of cases. I do not think we could give a blanket—and, indeed, it would not be in accordance with the immigration rules to give any kind of blanket—statement that an over-age dependent would not be granted, but I think it is important that we get some messages out there, and, I think, frankly, as the

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Minister referred to, I think we will see increasing numbers of refusals of these cases and I think that in itself will be a message.

**Q59 Mrs Cryer:** I wonder if you are able to give us a few figures. Since the policy change last May, how many applications including dependents have been received from the group affected, and is this about the rate of applications that you actually anticipated?

**Mr Sedgwick:** As I say, we had 1,900 cases either stayed or pending in the court system up until the new policy change; we have had 5,000 applications since then. Just over a thousand of those have been Gurkhas, around 4,000 have been dependents. We have cleared and granted all the stayed cases who qualified under the new policy, we have also cleared most of the other cases that were in the appeals system, and in relation to the 5,000 we have issued or approved around half of those cases. So there is around two and a half thousand that are pending. Many of those will be over-age dependents. We are very much prioritising the main applicants, the Gurkhas. It seems right to get those through first. Obviously, it is important that we establish their settlement rights before we turn to any dependent.

**Q60 Mrs Cryer:** How many have actually been granted settlement to date?

**Mr Sedgwick:** We have granted settlement to the vast majority of the 1,900—I think we have issued 1,600 of those—and we have granted settlement to, as I say, about half of the 5,000 since June.

**Q61 Martin Salter:** What is the average time taken to process an individual application without complications?

**Mr Sedgwick:** We did the stayed cases very quickly. The then Home Secretary had committed to dealing with those cases by June, which we did. A number of cases, as you are implying, if you are a Gurkha who has served for more than four years it is a very straightforward matter and many of those applications are dealt with very quickly. Our service standard for overseas settlement cases is ten weeks, and in Nepal and Delhi we shall certainly be working at that speed with cases that we are receiving at the moment. We have had a number of cases which have taken a little longer than that. For example, there are cases where we have written for further information from individuals. We know how difficult the postal system is in Nepal. We have tried various means to get that further information—telephone calls, using local Gurkha welfare officers, et cetera, to try to make contact with individuals—but there are a number of cases that are taking a little bit longer just because of the difficulty of making contact with individuals in a system where the postal service is not good.

**Q62 Chair:** My final question to both of you. Mr Sedgwick, are you rubbing your hands in glee because there was a suggestion that thousands and thousands of Gurkhas would suddenly arrive in the

United Kingdom as a result of the Government's decision, but actually you found that it is only two and a half thousand so far?

**Mr Sedgwick:** As I say, we still have not had a complete year. I think, if I am rubbing my hand with glee, it is with the extent to which certainly the agency has responded very effectively to deal with quite a complex difficult situation very speedily and effectively, and also I am very proud of the way that we have worked across government, as the Minister has suggested. Other departments have really pulled out the stops, whether it is the DWP fast-tracking National Insurance number applications or the government department with their arrangements for housing. I think it has been a really exemplary process.

**Q63 Chair:** As far as the work of this committee is concerned, whenever we have asked senior officials at UKBA to get on and deal with outstanding applications, your boss, Ms Homer, who was with us last week, told us that even on our last recommendation she could only note what we had said; she would not act upon it. Here you have an example of UKBA being set a deadline, meeting the deadline, dealing with applications. Why can you not do this with other applications to the UKBA?

**Mr Sedgwick:** I think we do increasingly.

**Q64 Chair:** With respect, you do not as far as outstanding asylum cases are concerned. This Committee recommended that outstanding applications be dealt with by October 2010. When we put this to Ms Homer, she rejected that. She rejected the advice of the Home Secretary. What is so different about the Gurkhas' case that you are able to clear this backlog so quickly?

**Mr Sedgwick:** On the asylum legacy, as you know there is a ministerial commitment to clear the legacy and we are on course to deliver that in the published timeframes. In relation to the Gurkhas, this is in some ways a unique but fairly focused piece of work and we have been able to apply resources locally and work effectively in a cross-government way to tackle that.

**Mr Winnick:** Or, in plain English, more high profile.

**Bob Russell:** You do not mess with the Gurkhas!

**Q65 Chair:** Mr Jones, Minister, can I ask you. The Ministry of Defence is currently fighting two wars. Obviously your resources are committed to doing other things. Is it still a worry to you that there is so much ministerial time and effort being spent on this particular issue, which is, in a sense, in the overall scheme of things, not the biggest priority for the Ministry of Defence? Does it worry you that here we have the Home Affairs Select Committee looking at it again? It has taken up a lot of your time. You have come to give evidence. We are very grateful for that. When do you think it will all end?

**Mr Jones:** Can I say, I think it was the right thing to do, with Parliament making the decision. I think it was right that we actually then put in place the best possible system, and I think we have done that.

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What concerns me a little bit is that I do not think this is the end because the campaign now will be for over-18 dependents. It does irritate me largely when I get letters (I am being very party political here) from Conservative Members of Parliament who tell me that their local authorities are being inundated with Gurkha applications when they actually voted for it. Is there a certain irritation on that? Yes, I think there is. Is it right for us to concentrate and put the resources in at this time? Yes, it is. Will this go away? I do not think it will, because I think in Nepal you will now get increasingly lobbied for the over-18s, also the issue around pensions has not gone away unfortunately, even though we have successfully, I think, won on that in every single court case that has been fought. Is it going to be a continual issue? Yes,

I think it is. In terms of numbers, I do not think we have actually seen the numbers yet. If there is one message I can put out it is that, if people are going to come and live in the UK, they have got to do it with the fullest informed information. I said it when I came before you last time: I think if you are a service Gurkha pensioner in Nepal the standard of living you can have there on what would seem to us quite a small pension is, I have got to say, very good compared to the life that, frankly, many of these older service pensioners are going to have if they come to the UK.

**Chair:** Minister, Mr Sedgwick, Mr Springall—I am sorry we have not heard from you today but it is lovely to see you—and Ms Gilmour, thank you very much for giving evidence today.

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### Memorandum submitted by Tim Heaver

This Memorandum is written to provide background information on aspects of the current position of Gurkha settlement to the Home Affairs Select Committee.

#### 1. VISA APPLICATION PROCEDURE

The Visa Section of the British Embassy in Kathmandu moved to the High Commission in New Delhi, leaving a Visa Application Centre in Kathmandu, in line with the “hub and spoke” policy.

Gurkhas and their dependant family members make their settlement applications on form VAF4A (freely available either on-line or from the Visa Application Centre). The visa fee is paid at Standard Chartered Bank the day before the visa application is made and the receipt is submitted to the Visa Application Centre together with the completed application form and any supporting documents. These are then checked and sent to the High Commission in New Delhi where a specially formed “Ex-Gurkha Team” considers each application.

There is no need for any applicant to be legally represented at this stage. The VAF4 whilst long is relatively straightforward. Any application from an ex-Gurkha who has served for less than four years or who has a serious criminal record may benefit from legal advice and representation, as may applications from widows and adult dependant children. All other applications from ex-Gurkhas, wives and minor children are virtually bound to succeed. Whilst many may lack the English language skills to complete a lengthy form in English, access to lawyers is not the only remedy to this and many will have family members, friends or colleagues to assist them.

After consideration of the application the Ex-Gurkha Team pass the decision back to the Visa Application Centre in Kathmandu for communication to the applicant. Visas or refusal notices are then made available.

So far, the writer is not aware of any ex-Gurkha soldier or spouse whose application has been refused. Widows and adult dependant children have been refused but it appears that the Ex-Gurkha Team are working methodically through the backlog of cases, starting with ex-Gurkhas and their spouses.

#### 2. REPRESENTATION IN NEPAL

The writer’s firm, N. C. Brothers & Co, solicitors, maintains no presence or representation in Nepal and currently have no intentions to do so.

The Office of the Immigration Services Commissioner (“OISC”) has no authority in Nepal and conducts no regulatory or other activities there. Consequently, it is difficult to say that any of the independent UK-based OISC-regulated representatives operating in Nepal at present meet any appropriate standards of conduct. Whilst the provision of unregulated paid immigration advice and services in the UK is a criminal offence, it is not in Nepal.

Whilst the Solicitors Regulation Authority has jurisdiction over solicitors of the Supreme Court of England and Wales wherever in the world such solicitors practice, there are obvious day-to-day problems in exercising such jurisdiction outside the U.K.

Whilst Nepal has a flourishing if immature legal system, local Nepalese lawyers have no substantial code of conduct or ethics. Nepalese law is completely different to UK law and Nepal still maintains much of a personality based system rather than a rule based system of law. There is no requirement to observe or treat

as paramount the best interests of the client. The value of migration to the individual Nepali is such that they are seen as a good source of revenue by local lawyers who usually lack expertise in UK immigration law and practice and who usually take the opportunity to severely overcharge the individual.

There are several individuals, groups and organisations offering immigration services, or introductions to those offering such services, in Nepal. Whilst most are well-branded, some are not, and the individual may not know who they are actually dealing with. Lack of supervision and regulation must lead to questions as to competence of the individual advisers.

The opening of a Brigade of Gurkhas Resettlement Office (“GRO”) in Kathmandu is to be applauded. Such an Office is able to provide for the basic settlement application which is all the ex-Gurkha really needs. Applications for widows and adult dependants require not only a greater level of expertise but also a will to “push the boundaries” of immigration policy and this may well be beyond the expertise and will of the GRO at present. The “Life in the U.K. Leaflet” handed out by the GRO lists the categories of applications that can be made by ex-Gurkhas and their families, but does not include adult dependants in that list. This is potentially a problem for the future, as family (and perhaps widow) applicants will not use the GRO, and will not be able to pursue entry clearance appeals through the GRO.

Unfortunately, many ex-Gurkhas view the GRO with suspicion as part of the British Government. It is also possible that perceived conflicts of interest may arise.

### 3. LEGAL AID

Messrs. Howe & Co, who maintain a presence in Nepal, hold a legal aid franchise for immigration law and exercise devolved powers to grant legal aid to Gurkha applicants in Nepal. This legal aid may be of up to £500 in value per applicant, but is usually around £250 per case. Grant of legal aid in such cases is a matter for the firm exercising devolved powers and the Legal Services Commission. The Legal Services Commission gave prior express authority to Howe & Co. to assist Gurkhas in Nepal in this way. It is understood that Howe & Co have now closed its offices in Pokhara and Kathmandu, and may withdraw from Nepal altogether.

### 4. GURKHA ORGANISATIONS

There are several Gurkha ex-servicemen’s organisations operating in Nepal and in the U.K. These include the Gurkha Army Ex-Servicemen’s Organisation (“GAESO”), United British Gurkhas Ex-Servicemen’s Association (“UBGEA”), the Nepal Ex-Servicemen’s Association (“NESA”) and the British Gurkha Welfare Association (“BGWS”). The “official” Brigade of Gurkhas organisation in Nepal is the Regimental Association Nepal (“RAN”).

### 5. SETTLEMENT AND FUNDING

Until recently, such settlement as took place was funded either by the settlers themselves or their families. The settlers relied largely on their own efforts and resources, or received assistance from family, friends and the community. Demands on charities were rare.

With larger (although still modest) numbers of ex-Gurkhas settling in the UK, demands for charitable resources are increasing. The distortion of the process caused by GAESO’s actions in Nepal are leading to greater numbers of elderly Gurkhas seeking to settle here in order to bring their families here. In many cases, pressure from adult children is intense. Many older ex-Gurkhas have no family or support network to move into in the UK, and the reluctance of the caste/jat groups to get involved removes one previously important source of help. The distortion of choice has probably led to many ex-Gurkhas choosing to enter the U.K. who would otherwise have not sought to do so and has undoubtedly led to greater demands on the charitable sector than were anticipated and has caused a strain on resources.

Ex-Gurkhas arriving in the UK with inadequate English language skills prevent them from obtaining work here. Whilst security training is now commercially available in Nepal, it is of little use without the linguistic skills required to make an ex-gurkha employable.

### 6. CURRENT STATUS OF GURKHA AND DEPENDANT APPLICATIONS WITH HOME OFFICE

As at 8 March 2010, all but three ex-Gurkha applicants present in the U.K. and who applied before 2009 have been granted settlement. The Home Office is in some disarray owing to the failure to identify those cases where for legal reasons no appeal against the initial refusal was possible. Here, the problems seem to be in identifying cases as Gurkhas.

Widows. As at 8 March 2010, there are Gurkha widow cases who applied for settlement prior to 2009 outstanding with the Home Office.

Adult Dependants. There are perhaps dozens of such cases outstanding at the Home Office.

A change to section 4 of the British Nationality Act 1981 that came into effect in February 2010 means that all Gurkha children born in Hong Kong prior to January 1983 will be entitled to British citizenship by registration. It would assist if the Home office could allow all such children who are present in the UK and awaiting settlement decisions to remain in the UK whilst their bona fide registration application is considered.

It would further assist if those adult dependants in the UK and waiting for settlement decisions or appeals and who hold permanent residence in Hong Kong could be permitted to return to Hong Kong to renew their permanent residence there without this ending their applications or appeals. This could be done only with consent of the Home Office.

Adult dependant applications are apparently being dealt with inconsistently within and between UKBA caseworker teams, and by Diplomatic Posts around the world other than those in Manila and New Delhi, who see comparatively large numbers of such applications. UKBA appear to waiting for hearings on 2 June 2010 to determine their approach to such cases and are also seeking legal advice as to whether and if so upon what grounds adult dependants and widows should be permitted rights to appeal refusals made to the Immigration and asylum Chamber of the First-Tier Tribunal.

A small number of overseas cases appear to have been "lost" in the closure of Visa Posts under the "Hub and Spoke" policy eg Singapore.

#### SUMMARY

1. The basic settlement visa application can be completed by the applicant with assistance from family/friends. It does not need legal representation. The Gurkha Resettlement Office is perfectly adequate in the majority of such cases.

2. There are very few regulated or properly qualified UK immigration advisers in Nepal.

3. The application process is distorted by the actions of some groups, particularly GAESO, who appear to be extorting up to £500 from each applicant for no apparent purpose.

4. The Home Office has had problems identifying all ex-Gurkha cases and has some policy issues to address. This is delaying completion of application in the UK.

5. Changes in nationality law have assisted many Gurkha children born in Hong Kong, who should be permitted to remain in the UK whilst they acquire British citizenship. Those in the UK should be permitted to renew Hong Kong permanent residence without jeopardising their settlement application or appeals.

*March 2010*

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#### **Memorandum submitted by Mr Kevan Jones MP, Minister for Veterans, Ministry of Defence**

Since the immigration changes were announced on 21 May 2009, my Department has been leading on the arrangements to make sure that ex-Gurkhas, many of whom are very old and cannot speak English, get the right sort of information to help them decide whether to come and live in the UK; and, if they do decide to come, that arrangements are made to ensure their settlement happens smoothly.

In October 2009 MOD opened a Gurkha Settlement Office in Nepal. This office offers information about life in the UK, free help to fill out the visa application form and help with other documents. It has received nearly 4,000 visits, and around 2,000 ex-Gurkhas and/or their dependents have registered on the settlement office database for help with their visa application. With the help of the Gurkha Welfare Trust, the lead Gurkha charity, we have sent briefing teams to the East and West of Nepal to explain the benefits of using the settlement office. In addition, both we and the UKBA have sent briefing teams who have met with several hundred ex-Gurkhas to explain how the new immigration arrangements work.

In the UK, again in partnership with the Gurkha Welfare Trust, we have enhanced our welfare arrangements in the Gurkha Welfare Centre in Aldershot and in the Trust's offices in Salisbury.

We have formed a Cross-Government Working Group to address settlement issues. The Department of Work and Pensions (DWP) have introduced fast-tracking arrangements for the allocation of National Insurance numbers, the process for which starts in Nepal. This means that for those using the MOD Gurkha Settlement Office in Kathmandu there is no delay in getting benefits or employment. The UKBA have introduced a special endorsement on the visa to enable DWP to waive the normal three months' residency requirement before receiving benefits. The Department of Community and Local Government setting up a "National Housing Advisory Service" for ex-Gurkhas. It is intended that this service will provide housing advice and practical resettlement support to newly arriving Gurkhas. It will advise them on their housing options and support them to access the private rented sector. The service will include provision for a rent deposit bond guarantee to facilitate access and reduce the risk of homelessness. All Government departments are sharing information to make sure that these ex-Gurkhas do not have to navigate their way around the UK welfare system. In addition, a local authority working group has been set up to ensure that National and Local Government are joined up on the settlement arrangements.

We understand that the UKBA have received over 6,600 visa applications from ex-Gurkhas and their dependants to date and have authorised or issued over 3,650 visas. We do not know how many of these ex-Gurkhas have found their way to the UK but we have to assume that many have done so and settled without any problems. However, I am aware from meetings that both myself and my officials have had with the Service Charities that some Gurkhas are falling through the safety net arrangements we have put in place. These numbers are relatively small (around 120 welfare cases) and in nearly all cases the individuals had not used the free service of the settlement office in Nepal. Whilst the numbers are small, they are distressing for the individual and his family. Often these people appear to have been told by unscrupulous agents in Nepal to expect to find that arrangements including accommodation will already be in place when they touch down at the airport. These stories coming through our welfare system and that of the charities appear also to be corroborated by recent media stories (I attach a recent press article on this subject).

I am concerned about such reports and I have had a recent meeting with the Service charities to see what more we might do to counteract any misinformation that may be propagated by individuals who might seek to exploit these vulnerable people. We will be increasing our efforts in Nepal to get information out about the benefits of using the settlement office, particularly the fast-tracking arrangements. I also intend, through the MOD welfare system and with the help of the service charities, to monitor closely the welfare cases in the UK to see if the work we are doing in Nepal is as effective as it can be.

March 2010

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### **Memorandum from Rushmoor Citizens Advice Bureau (Aldershot and Farnborough)**

#### EXECUTIVE SUMMARY

Citizens Advice Bureau in Aldershot and Farnborough have seen an increase in clients who are ex-Gurkha soldiers, recently arrived in the UK. Many of these former soldiers are elderly and arrive with little money and nowhere to live. They visit the CAB for advice on welfare benefits and housing. A dedicated caseworker advises clients with a connection to the armed services, so she sees many of the ex-Gurkha clients. Her experience is detailed below. We have also attached some case studies to give the Committee a sense of the problems some recently arrived ex-Gurkhas are experiencing.

#### EVIDENCE FROM VERONICA COLEY—BENEFITS AND MONEY ADVICE CASEWORKER

1. The majority of people seen by the CAB have been single men over 60 arriving in the UK first with the intention of wife/ partner and dependent children following once the “head of the household” has settled.

2. Very few of the clients seen by the CAB have sought help from the British Settlement Office in Kathmandu; the majority say they have had assistance from GAESO in Nepal.

#### 3. *Housing*

3.1 Some people have family or friends in the area with whom they are staying. We are told that, once the claim for Pension Credit is finalised, the client will find their own accommodation, claiming Housing Benefit.

3.2 Others, who arrive in the area without any local contact, seem to have been found a shared room with the help of the local Nepalese community or GAESO, which has an office in Aldershot.

3.3 Rushmoor CAB is advising all newly arrived ex-Gurkhas to join the Local Housing Register and to seek advice from the local Housing Options team at Rushmoor Borough Council or the CAB Housing Specialist Adviser.

#### 4. *Benefits*

4.1 Most newly arrived ex-Gurkhas who come to the CAB for help with Benefit claims have less than £100 in cash.

4.2 They are brought or referred to the Bureau by local organisations, such as Maddhat Shamuha (based in Farnborough), GAESO and also family or friends.

4.3 A Nepalese Partnership has been created with the Pension Service, Gurkha Welfare Centre, Rushmoor Borough Council, Rushmoor CAB and local Nepalese Community Groups. This has led to a speedier claiming process for clients and minimises applications for assistance to Forces charities.

4.4 Claimants under 60 have particular problems claiming Benefits, as the route is through the Jobcentre Plus. There appears to be difficulty with the DWP obtaining a Nepalese interpreter. Claimants also say they have difficulty choosing the correct options when calling the DWP claim line. It would be extremely helpful if a DWP claim process could be set up similar to that of the Pension Service.

4.5 Ex-Gurkhas with British Army Pensions paid in Nepal have difficulty accessing the funds. In some cases the Pensions are used to help support family still living in Nepal. The amount of the Pension is deducted from any entitlement to Benefit leaving the claimant living on less than the applicable amount for a similar person in their circumstances (ie a claimant (single person) with a weekly British Army pension of £40pw will be awarded Pension Credit of £90pw (30% below the “applicable amount”).

#### 5. *Health*

5.1 We have no evidence of problems with newly arrived (under the change in Rules) ex-Gurkhas registering with GPs. Some have told the Bureau they have long term health issues in all cases they have been advised to return to the Bureau for help with claiming Disability Benefits.

#### 6. *Case Studies*

##### 6.1 Mr G

The client and his wife were accompanied by Mrs K., who had befriended them. The client and his wife, who do not speak English, arrived from Nepal 10 days ago and had obtained a room through GAESO. The accommodation consisted of one room with no washing facilities. They were not allowed to stay there during the day. Mrs K took the couple in, but she lives in a two-bedroom flat with her three daughters, so could not put them up indefinitely. A request for a home visit by the Local Pension Service was completed by the adviser and she explained through an interpreter that the clients needed to open a bank account and to register with a doctor.

##### 6.2 Mr L

This client is an ex-Gurkha who has been in the UK since 2009. He has not worked since then and has not claimed benefits. It is clear that the client is struggling and that language is a barrier for him. The client's position is not sustainable, as he has no income and is living off friends, making him extremely vulnerable. The client has almost no familiarity with the benefits system, how to claim, or what he might be entitled to. For these reasons, it was felt viable to take on the case to ensure that his income is maximised and that he is directed to the right agencies that can assist him further.

##### 6.3 Mr A

The client is a retired Gurkha living in the UK with indefinite leave to remain. He was living at an address in Aldershot along with four other ex-Gurkhas, but the property was closed down by the Council for Health and Safety reasons. Since then he has been staying with another Nepalese friend but in a sitting room that has no bedroom space. The client has applied for pension credit with the help of the caseworker.

*March 2010*

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