



House of Commons  
Defence Committee

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# **Lost in Translation? Afghan Interpreters and Other Locally Employed Civilians**

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**Fifth Report of Session 2017–19**





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**Fifth Report of Session 2017–19**

*Report, together with formal minutes  
relating to the report*

*Ordered by the House of Commons  
to be printed 22 May 2018*

## The Defence Committee

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

### Current membership

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[Leo Docherty MP](#) (*Conservative, Aldershot*)

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Committee reports are published on the Committee's website at [www.parliament.uk/defcom](http://www.parliament.uk/defcom) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry page](#) of the Committee's website.

### Committee staff

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## Summary

During the United Kingdom's involvement in Afghanistan, British forces were supported by some 7,000 locally employed civilians (LECs), about half of whom fulfilled vital roles as interpreters. Serving alongside—and for—the British military, Afghan interpreters and other LECs were often exposed to extremely dangerous situations. There is a broad consensus that the UK owes them a great 'debt of gratitude'. This consensus has included the UK Government, which claims to have honoured that debt through two schemes established for LECs who served in Afghanistan:

- i) **The Redundancy Scheme.** This gives benefits in Afghanistan to those LECs who were employed in frontline roles on the date that the UK Government announced the drawdown of British forces in Afghanistan (19 December 2012) and who had worked for 12 months or more. However, the option of relocation to the UK has been made available only to those LECs who meet those criteria and also served on the front line in Helmand for a minimum of 12 months.
- ii) **The Intimidation Scheme.** This is, in theory, open to all LECs; but its focus has overwhelmingly been on solutions inside Afghanistan—either in the form of security advice or through internal relocations. Relocation to the UK has been treated as a matter of last resort. Remarkably and regrettably, not one single interpreter (or other LEC) has successfully been relocated to the UK under the Scheme as implemented so far.

Both Schemes have been the subject of substantial criticism from the media, former Service personnel and from LECs themselves. Critics have spoken of former interpreters and other LECs being 'abandoned' by the UK Government and have alleged that many of them resorted to using people-smugglers in order to escape the revenge of the Taliban. The Redundancy Scheme has attracted criticism for the allegedly 'arbitrary' nature of the cut-off date; whilst the failure to relocate anyone at all under the terms of Intimidation Scheme has been roundly condemned.

In the light of these criticisms, the Defence Committee, in this and the previous Parliament, has examined the effectiveness of both schemes. We wanted to assess whether they operate effectively and whether they discharge our country's debt sufficiently.

This is not just a matter of honour. How we behave now will send a message to interpreters and other LECs—whom we are likely to need in future military campaigns—about whether we can be trusted to protect them from the threat of reprisals at the hands of our enemies.

On the Redundancy Scheme, our report finds that:

- Despite criticisms of the Scheme for its cut-off date, it has been generous and proportionate in allowing former interpreters and other LECs to settle in the United Kingdom. The MoD has told us that some 1150 LECs and their dependents have been able to relocate to the UK under this Scheme.

- However, we recommend that the MoD should still examine whether to extend the in-country options of this Scheme to former LECs who left service before 19 December 2012. We also suggest that the Government should explore providing scholarships and training support to educational facilities in Afghanistan.

The situation in respect of the Intimidation Scheme is incomparably worse. Our report finds that:

- It is impossible to reconcile the generosity of the Redundancy Scheme with the utter failure of the Intimidation Scheme to relocate even a single LEC to the United Kingdom. This incompatibility of outcomes leads us to question whether the Afghan Government—which has played an important role in shaping the Scheme—is simply unwilling to admit that the country is too dangerous to guarantee the safety of former interpreters and other LECs.
- The ‘no brain drain’ argument, which has dominated UK-Afghan intergovernmental working on the Intimidation Scheme, is completely disingenuous. If it were genuine, it would also have ruled out the successful relocation of hundreds of LECs to the UK under the Redundancy Scheme. No objections about losing “the brightest and the best” appear to have been raised to relocations under that Scheme—a fact which only strengthens the suspicion that the Intimidation Scheme has been stymied by the insistence of the Afghan Government on denying the reality of the local security situation.
- There is ample scope for a looser and more sympathetic approach to the application of the Intimidation Scheme, as members of the Assurance Committee set up to oversee it have conceded. We therefore recommend that the Assurance Committee should bring forward proposals for applying the Intimidation Scheme in a meaningful way. In doing so, the Government must abandon its policy of leaving former interpreters and other loyal personnel dangerously exposed in a country deemed too dangerous for those charged with assessing their claims to venture out from their bases in order to do so.

# Introduction

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## Background

1. Throughout the United Kingdom's involvement in Afghanistan, British forces were supported by some 7,000 Afghans, known as locally employed (or engaged) civilians (LECs).<sup>1</sup> They worked in a variety of support roles alongside British military and civilian personnel where they were often exposed to danger. The greatest risks were taken by those acting as interpreters who accompanied British troops on operational patrols and, according to the MoD, interpreters accounted for around half of all LECs in Afghanistan. As well as facing frontline danger during their employment, interpreters and other LECs and their families in Afghanistan continued to be at risk of reprisals after the completion of the British drawdown in 2014.

2. The UK Government has stated that it believes that it has a 'debt of gratitude' to LECs and in recognition of this, and of the dangers of their work, the Government has established two schemes for former LECs in Afghanistan:

- a Redundancy Scheme, open to those LECs who were employed in frontline roles on the date the UK announced its drawdown (19 December 2012) and who had worked for 12 months or more; and
- an Intimidation Scheme, open to all former LECs.

3. These schemes, however, have been the subject of repeated criticism in the press and from former LECs and British Servicemen. In addition to claims that former LECs have been 'abandoned' by the UK Government, with many alleged to have relied on people smugglers to escape the Taliban, the Redundancy Scheme has been criticised for the 'arbitrary' nature of its cut-off period for applicants, and concerns have been expressed about the way in which the Intimidation Scheme has been implemented.<sup>2</sup>

## The inquiry

4. In light of these criticisms, the Defence Committee, in this and the previous Parliament, decided to examine the effectiveness of measures that the Government put in place to provide security and support to LECs in Afghanistan, and whether these measures adequately reflected the crucial role which interpreters and other LECs played in the campaign.

5. In January 2017, the previous Defence Committee took oral evidence from Colonel (Rtd) Simon Diggins OBE, former British Defence Attaché in Kabul, Rafi Hottak, a former interpreter for British Forces in Afghanistan, and the-then Minister of State for the Armed Forces, Rt Hon Sir Mike Penning MP.<sup>3</sup>

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1 Letter from the Minister of State for the Armed Forces, Rt Hon Mark Lancaster TD VR MP to the Chairman of the Defence Committee, Rt Hon Dr Julian Lewis MP, dated 12 March 2018

2 [LEI0003](#) [HC 993]; D. Williams (16 August 2015), [Betrayal of the brave: As illegal immigrants flood in unchecked, Afghan interpreters abandoned by Britain are forced to pay people smuggles to escape revenge of the Taliban](#), *Mail Online*; L. Brown (13 December 2017), [Not ONE Afghan interpreter who helped British troops has been allowed into the UK under new rules that means they must prove they are at risk](#), *Mail Online*.

3 Defence Committee (7 February 2017), [Oral evidence: Locally employed interpreters](#), HC 993

6. The Committee returned to this subject, following the General Election, holding a further evidence session in November 2017 with Tom Tugendhat MBE MP, the Chair of the Foreign Affairs Committee, who saw active service in Iraq and Afghanistan as an Army officer, and two members of the Locally Employed Civilians Assurance Committee: Baroness Coussins, a member of the House of Lords International Relations Committee, and Lord Stirrup, a former Chief of the Defence Staff.<sup>4</sup> A full list of witnesses is appended to the back of this report and we thank all of them for their evidence to this inquiry.

7. Starting with a brief discussion of the role played by LECs in Afghanistan, this report then focuses on the operation of the two schemes—including the criticisms of them and the responses from the Ministry of Defence. Attached to the report is an annex that looks at the broader context in which the Afghan schemes have operated, including comparisons with the scheme provided for LECs engaged in Iraq and the steps taken by the UK’s coalition allies in Afghanistan.

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4 Defence Committee (28 November 2017), [Oral evidence: Locally employed civilians](#), HC 572

# 1 Locally employed civilians

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8. The Ministry of Defence, in line with other Government departments including the FCO and DFID, has a long-established practice of recruiting locally employed (or engaged) civilians (LECs) to support missions and operations in-country. According to an MoD quarterly personnel statistical report of 2016, LECs are:

Employees who have been recruited locally as a “servant of the Crown”. In other words, they have not been recruited through fair and open competition in the UK under the Civil Service Order in Council and they are not therefore members of the Home Civil Service or the Diplomatic Service.<sup>5</sup>

9. The majority of civilian personnel employed overseas by MoD are LECs, and therefore not civil servants. LECs are recruited locally exclusively for employment in support of the UK Armed Forces deployed in a particular overseas theatre and on terms and conditions of service applicable only to that overseas theatre or Administration. In the past this has included the dependents of UK military personnel or UK-based civilian staff employed in an overseas theatre (who are sometimes separately identified as UK Dependents). However, since October 2013, UK Dependents are no longer included in LEC figures. The MoD claims this to reflect the different terms and conditions of these personnel.<sup>6</sup> On 18 September 2015, according to the then Secretary of State, there were approximately 7,000 former local staff members who had worked for HMG in Afghanistan.<sup>7</sup>

10. The importance of the role played by LECs in Afghanistan is widely acknowledged. Tom Tugendhat MP told us that interpreters were “absolutely fundamental” to the work undertaken by coalition forces and to the allied forces’ central mission of rebuilding a sovereign Afghanistan.<sup>8</sup> He added that, in addition to providing secretarial and interpretation work, LECs helped “British soldiers and civilians to understand the local context, to be aware of stories that we would perhaps never have heard but which shaped the way people acted”, providing UK personnel with a “complete cultural lesson”.<sup>9</sup>

11. There has been a broad consensus that the UK owes a ‘debt of gratitude’ to the LECs who served UK forces during their engagement in Afghanistan—not only on grounds of principle, but also in recognition of the vital role that they play in the success and management of ground operations. As Mr Tugendhat put it, “if we don’t look after those who we need in conflict—whether it be the soldiers, airmen or sailors that we need to defend us, and I would include the interpreters and locally employed staff in that—we will find it significantly harder to recruit those people. That will make us less safe”.<sup>10</sup>

12. The MoD has frequently expressed its thanks to those who served as LECs in Afghanistan and claims to have “taken steps to recognise this debt of gratitude”.<sup>11</sup> Hence the Redundancy and Intimidation Schemes for former LECs.

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5 Ministry of Defence, [Quarterly Civilian Personnel Report](#), 1 October 2016, p 32

6 Ministry of Defence, [Quarterly Civilian Personnel Report](#), 1 October 2016, p 32

7 [Letter from Rt Hon Michael Fallon MP to the Chairman, dated 18 Sept 2015](#)

8 Qq2, 20 [HC572]

9 Q20 [HC572]

10 Q21 [HC572]

11 See for example: Letter from Rt Hon Mark Lancaster TD VR MP to the Committee Chairman, dated 12 March 2018; Letter from Rt Hon Michael Fallon MP to the Committee Chairman, dated 18 September 2015; [HCWS3388](#); Q108 [HC993]

13. We agree with Tom Tugendhat MP that providing care and support for personnel engaged in conflict—whether as soldiers or as locally employed civilians (LECs)—is an incentive to recruiting such staff for future operations. Furthermore, on grounds of principle and morality, the UK Government owes a duty of care to those who served alongside UK forces. We express our gratitude for the hard work and bravery of the interpreters and other LECs who served with UK forces during the Afghan conflict.

14. We note that the Ministry of Defence has, on many occasions, expressed its appreciation to those who served as LECs in Afghanistan. We also note its claim to have recognised this debt by setting up the Redundancy Scheme and the Intimidation Scheme. The purpose of our inquiry is to assess whether these Schemes operate effectively and whether they discharge our country's debt sufficiently.

## 2 The Redundancy Scheme

### The Redundancy Scheme

15. First announced in June 2013, the Redundancy Scheme was, according to former Secretary of State for Defence, Rt Hon Sir Michael Fallon MP, “introduced to recognise the valuable contribution made by local staff in the UK’s operations in Afghanistan”.<sup>12</sup> To be eligible for the scheme, applicants must have been:

- engaged as an LEC on 19 December 2012 (the date on which it was announced that British forces would start to draw down in Afghanistan);
- made redundant as a direct consequence of the drawdown decision; and
- engaged as an LEC for at least 12 months at the point they were made redundant.

16. Former LECs who fulfilled these criteria were offered two options:

- i) a finance package equivalent to 18 months’ salary, or
- ii) a training package of up to five years funded education or training in-country, accompanied by a living stipend equivalent to the final salary.

A third option, relocation to the UK, is available to former interpreters and other LECs who, in addition to fulfilling the criteria above, served in a ‘frontline’ role in Helmand for a minimum of 12 months. According to the Minister of State for the Armed Forces, in a letter to the Chairman of the Defence Committee, as of 12 March 2018 the Redundancy Scheme will have brought some 450 LECs and 700 family members to the UK, as well as providing in-country training and finance options for another 372 former LECs.<sup>13</sup>

### *The scheme criteria: too tightly drawn?*

17. The main criticisms of the Redundancy Scheme have focused on the tightly drawn criteria used to ascertain eligibility—in particular the cut-off date of 19 December 2012. During his oral evidence to our predecessor Committee in February 2017, Thomas Coghlan, a former foreign correspondent for *The Times*, criticised the Government’s policy as being “fixated” on this “arbitrary cut-off date”.<sup>14</sup>

18. Rafi Hottak, a former interpreter now resident in the UK, also criticised the Redundancy Scheme for its focus on a cut-off date, “not the threat level to an interpreter” and suggested that the date meant that “many who risked the most on the front line and face threats do not qualify”, including those “who served for many years but resigned because of threats to them and their families”.<sup>15</sup>

19. On the cut-off date, the *Daily Mail*, in its written evidence to our predecessor Committee, said that it was “the view of many people we have spoken to, including former senior military figures and veterans of Afghanistan, that there is absolutely no reason nor

12 HC Deb, 4 June 2013, c.87WS; Letter from Rt Hon Michael Fallon MP to the Committee Chairman, dated 18 September 2015

13 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

14 Q20 [HC 993]

15 LEI0001

justification for this date”. The *Daily Mail* also noted that former LECs had stressed that “some of the most intense fighting happened before this period, and they regularly put their lives on the line for the British”.<sup>16</sup>

20. The *Daily Mail*’s written evidence also includes the suggestion that some former LECs believe that their contracts were terminated “in the months leading up to this cut-off point to ensure that they did not qualify for the scheme”. It pointed to concerns that some LECs “who worked through the qualification period have been told that they do not qualify for resettlement to the UK because they did not serve regularly on the front lines”.<sup>17</sup>

### ***Tightly drawn, but fair?***

21. Baroness Coussins, a member of the Government’s LEC Assurance Committee established to scrutinise the implementation of the Intimidation Scheme, acknowledged that the criteria used for the Redundancy Scheme were “very specifically and narrowly drawn”.<sup>18</sup> She told us that 1,200 LECs, of the near 7,000 who were engaged in Afghanistan, qualify for the scheme, and “only half of them, approximately, qualify for the resettlement option”.<sup>19</sup> However, Baroness Coussins rejected the idea that the scheme was inferior to those offered by other allies (for an overview that places the UK schemes in the broader international context, see the annex attached to this report).

22. Baroness Coussins told us that there has “been a lot of misleading publicity” about the Redundancy Scheme and said that under the scheme “LECs with 12 months’ frontline service qualify for relocation here without having to meet any asylum criteria, which are necessary for most other NATO-nation states”.<sup>20</sup> Jonathan Iremonger, Assistant Chief of Staff at the Permanent Joint Headquarters in Northwood, suggested that “most other NATO nations, if they have a relocation scheme, it is on the basis that it is not safe for the person to remain in the country”. Stressing that the Redundancy Scheme was not based on that premise, Mr Iremonger noted that the scheme would move people who fulfilled the criteria without being “conditional upon intimidation”.<sup>21</sup>

23. On why 19 December 2012 was chosen as the cut-off date, Mr Iremonger explained that that was the date that the drawdown had been announced. He suggested that the Government’s decision was taken on the principle that “we should reward those who had stayed with us through to that point and recognise our debt to them”, as well as the fact that having been made redundant, LECs might face a period “when they might struggle to find employment”.<sup>22</sup>

24. The MoD rejected the suggestion, repeated in the *Daily Mail*’s written evidence, that some LECs had had their contracts terminated to disqualify them from the redundancy scheme. Comparing the date that the Redundancy Scheme was announced by the Government (June 2013) with the chosen cut-off date of 19 December 2012, the MoD argued that “the Redundancy Scheme criteria were not known when decisions on redundancies were made prior to December 2012” and that any such redundancies

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16 LEI0003

17 LEI0003

18 Q43 [HC572]

19 Q43 [HC572]

20 Q66 [HC572]

21 Q66 [HC993]

22 Q67 [HC993]

were a result of work no longer being available. Indeed, the MoD insisted that “once the scheme criteria had been announced, the scheme administrators took care to avoid any unreasonable disqualification”.<sup>23</sup>

25. Overall, the MoD has argued that the Redundancy Scheme is both generous and proportionate and also that the scheme was created following consultations with NATO allies, including the Afghan Government.<sup>24</sup> The MoD’s evidence has also sought to make clear what the scheme is and what it is not. It is a redundancy-based scheme, designed for recognising debts owed to those who lost work because of the UK’s drawdown. It is not designed to deal with the issue of intimidation.<sup>25</sup> The latter is the subject of the Government’s Intimidation Scheme and is considered in the next chapter of this report.

### *Status of relocated LECs*

26. Those LECs and their dependents who relocated to the UK have been provided with “limited leave to enter the UK”, under UK immigration rules, and a visa that grants five years Leave to Remain in the UK, “with an opportunity in the future to apply for Indefinite Leave to Remain at the end of that five-year period”.<sup>26</sup>

27. In May this year, Deborah Haynes, Defence Editor of *The Times*, reported that 150 Afghan former LECs now resident in the UK had written to the Home Secretary, stating that they had been told that they would each have to pay around £2,389 to be granted Indefinite Leave to Remain or face the risk of being deported to Afghanistan. According to these LECs, the uncertainty over their residency status had prevented many from finding a job, in turn making it more difficult to afford the fees demanded for Indefinite Leave to Remain. The LECs also referred to dependents who either had to stay at home to care for family members, or were unable to afford the costs of travelling to Kabul to secure their visas, and are still in Afghanistan.<sup>27</sup>

28. On 4 May 2018, the Home Secretary, Rt Hon Sajid Javid MP, announced that the fees for applying for Indefinite Leave to Remain for former Afghan LECs would be waived and added that the Home Office would look again “at what can be done” to make it easier for dependents to join LECs who have already travelled to the UK.<sup>28</sup>

**29. We understand the disappointment of those former LECs whose employment finished before the cut-off date, and are therefore ineligible to apply for the Redundancy Scheme. We note the suggestions that the cut-off date was arbitrary and that many feel that there was no justification for the date chosen.**

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23 Letter from Rt Hon Mark Lancaster to the Chairman, dated 12 March 2018

24 Qq66, 67, 71 [HC993]

25 Q71 [HC993]

26 HM Government, [Guidance: Afghanistan Locally Employed Staff Ex-Gratia Scheme: further information about eligibility criteria and offer details](#)

27 Haynes, D. (3 May 2018). Afghan interpreters fear being sent home to their fate under visa rules, <https://www.thetimes.co.uk/article/afghan-interpreters-fear-being-sent-home-to-their-fate-under-visa-rules-0d7qdn8vr>

28 BBC News (4 May 2018). Afghan interpreters’ UK immigration fee waived, *BBC News*, <http://www.bbc.co.uk/news/uk-43998925>

30. However, it is important to recognise what the scheme is and what it is not. The scheme is not designed to be a more general scheme of relocation and re-education for LECs. It is a Redundancy Scheme, focused on acknowledging the Government's responsibilities to LECs who have lost their employment because of the drawdown of UK forces in Afghanistan.

31. Given that the total number of former LECs and their dependents relocated to the UK is in excess of one thousand, and that nearly 400 former LECs have benefited from the in-country training and finance aspects, we consider that the Redundancy Scheme has been generous and proportionate in allowing locally employed civilians to settle in the United Kingdom as a result of losing their jobs when UK Armed Forces were withdrawn from Afghanistan. This generosity contrasts starkly with the total failure to offer similar sanctuary to interpreters and other LECs under the provisions of the Intimidation Scheme.

32. Locally employed civilians and their dependents admitted to the UK by means of the Redundancy Scheme have not had to meet the asylum criteria applied to most former LECs seeking relocation to other ISAF states. However, the recent difficulties over payment for an extension of relocated LECs' Leave to Remain could have had serious consequences for those affected and should never have arisen. We are pleased that the Home Secretary has waived these unjustified fees, following an effective and conscientious media campaign.

33. *The Redundancy Scheme has enabled the relocation of a substantial number of locally employed civilians. However, if it was right to bring them to the United Kingdom, it is right to allow them to stay. All relocated LECs should, as a matter of course, be provided with Indefinite Leave to Remain. While the Home Office has agreed to waive the fees for those who have recently been faced with visa extension demands, those who have already paid for such extensions should have their fees refunded.*

34. *The MoD should also consider more seriously how it responds to those who worked for UK forces before the cut-off date and who feel unfairly excluded. In particular, the MoD should examine the possibility of extending its in-country training options to former LECs who left service before 19 December 2012. We suggest, for example, that the Government could provide scholarships and offer training support to educational facilities in Afghanistan.*

## 3 The Intimidation Scheme

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### The Intimidation Scheme

35. The Intimidation Scheme provides a mechanism for supporting locally employed civilians who believe that their safety is threatened because of their previous assistance to the United Kingdom in Afghanistan. It is open to all current or former LECs who were engaged by any UK Government Department from 2001 onwards. It was first established in 2010, with a revised scheme announced in 2013.

36. Currently, it is administered by the Intimidation Investigation Unit (IIU) in Kabul, with the most complex and challenging cases referred to a team in London. Any former LEC can contact the IIU, which will assess their security needs. According to the MoD, “when an individual contacts the MoD’s Intimidation Investigation Unit and reports an incident, an initial risk assessment is made within 24 hours to decide whether the individual’s life is under immediate threat”.<sup>29</sup> This assessment results in a ‘traffic light’ classification:

- Green: these cases are at the lowest risk of harm and the LECs involved are given security advice such as changing phone numbers or varying routes of travel;
- Amber: these cases are where the risk of intimidation or harm is considered to be more substantial. In such instances, the LEC involved can be awarded payments to cover the cost of internal relocation within Afghanistan, or reimbursed for the cost if they have already done so; and
- Red: these are the most serious cases and it is only in these instances that relocation to the UK will be considered.<sup>30</sup>

The MoD also explained that in cases where there is an “imminent and significant” risk (i.e. an amber or red case), “immediate action is taken to remove the individual from this risk whilst the intimidation claim is investigated”. The assessment of “imminent and significant risk” is undertaken on a “case by case basis according to individual circumstances”.<sup>31</sup>

37. In a Written Ministerial Statement in November 2015, the MoD announced additional changes:

- A dedicated e-mail address was set up to enable those with concerns about the welfare and safety of LECs in Afghanistan to report these concerns to the IIU. This was targeted at current and former members of the Armed Forces and officials who had served in Afghanistan and who had specific concerns about named individuals;
- An LEC Assurance Committee was established, chaired by the Minister of State for the Armed Forces;

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29 Letter from Rt Hon Mark Lancaster TD VR MP, dated 12 March 2018

30 Letter from Rt Hon Mike Penning MP to the Chairman, dated 27 February; Letter from Penny Mordaunt to MPs, dated 12 May 2016

31 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

- An audit of past cases (around 160 at that point) was undertaken by an independent barrister, with a commitment that 20% of future cases would be assessed; and
- A commitment was given to review the scheme periodically.<sup>32</sup>

38. As of 27 February 2017, the IIU had received a total of 401 claims, of which 386 had been investigated and 15 were pending:

- Cases closed with provision of security advice ('Green'): 284
- Cases closed with provision of financial award for relocation within Afghanistan ('Amber'): 35
- Cases closed with relocation to UK considered ('Red'): 1

The remaining 85 cases were withdrawn or closed due to lack of contact.<sup>33</sup>

39. The MoD has frankly stated that relocation to the UK under the Intimidation Scheme is considered only as a last resort and that this scheme “is not designed for LECs to apply to relocate to the UK”.<sup>34</sup> In its written evidence, the MoD provided details of the single case of an LEC who was judged to be under sufficiently serious risk for relocation to the UK. A grant of leave to enter the UK is subject to satisfactory security clearance checks, visa approval for the LEC and family members also considered to be under threat, and DNA checks to ensure that those family members were related as claimed. In the case of this solitary LEC, the individual failed the necessary security screening processes and was denied a visa. He accepted an ‘alternative mitigation measure’ instead. This means that no-one at all has been successfully relocated to the UK as part of the scheme established in 2013.<sup>35</sup>

40. Only one LEC was successfully relocated to the UK under an earlier version of the Intimidation Scheme, before the institution of the IIU. He was brought to the UK under an offer of education as it was judged that the risk was too great for him to remain in Afghanistan.

### **The LEC Assurance Committee**

41. The LEC Assurance Committee was established in November 2015, to “reflect on the application of the [intimidation] policy in a cross-section of cases and make recommendations on how the policy could be improved.” According to the then Minister of State for the Armed Forces, the purpose of the committee was not to decide whether the decisions made are right or wrong, “but whether the rules have been interpreted correctly and whether in the main we need to tweak it”.<sup>36</sup>

42. The committee is chaired by the Minister of State for the Armed Forces and its membership includes Baroness Coussins, Lord Stirrup and the Bishop of Colchester. In addition, a former LEC has been appointed to provide the committee to bring a “direct

32 [HCWS318](#), 19 November 2015

33 Letter from Rt Hon Mike Penning MP to the Chairman, dated 27 February 2017; LEI0005

34 LEI0004

35 LEI0004

36 Q72 [HC993]

interpreter perspective on what the process is like for former local staff and the challenges they face in Afghanistan”.<sup>37</sup> The committee plays no role in monitoring the Redundancy Scheme.

43. Despite being chaired by a Minister, the committee is, according to the then Minister of State for the Armed Forces, “supposed to be impartial”.<sup>38</sup> Each of the independent Members can access case files and, according to the MoD, these members have “taken responsibility for selecting the categories of claims to be considered”.<sup>39</sup>

44. According to Mr Iremonger, the Assistant Chief of Staff at PJHQ, each time the committee meets “it reviews the security situation in Afghanistan” and “gets a report from the Foreign Office representative [...] about what the developments have been since the last time the committee met”. The committee keeps the general situation under review and “looks at whether there are any questions about the policy that need to be raised to the Minister or to the Cabinet Office [...] about whether the scheme is still fit for purpose”.<sup>40</sup> At the time of our evidence session on 28 November 2017, the committee had met five times. According to Baroness Coussins, at each meeting, the committee “has looked at three, four or five cases”.<sup>41</sup>

### *The independent barrister’s audit of the intimidation policy*

45. In 2015, an independent barrister was commissioned by the Government to conduct an audit of past cases considered under the intimidation policy. According to the MoD, the barrister carried out three reviews: one in summer 2015 and two in winter 2015–16, and provided “an assessment on the legality of the decisions taken in the cases selected” and identified whether there were aspects of those cases that “should be reviewed”.

46. The first review looked at 166 cases, of which “less (sic) than 5% of the decisions were identified as potentially unlawful”. These cases were, in turn, then assessed by the IIU which “concluded that whilst there had been administrative errors, notably in recording the basis for decisions taken, these had not invalidated the decisions and the cases were not reopened”.

47. In the second and third reviews, the barrister looked at a further 34 cases, of which “only two case decisions were identified as potentially unlawful”. As with the first review, these cases were reviewed by the IIU and “it was concluded that the right decisions had been taken”. In addition, the MoD has told us that following the independent audit, policy has been “reviewed and clarified where there were problems of detailed interpretation (e.g. on whether the intimidation was a family dispute in which the Taliban was used as a threat, or employment-related)”.<sup>42</sup>

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37 HCWS318, 19 November 2015

38 Q72 [HC993]

39 Q72 [HC993]; Q41 [HC572] Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

40 Q75 [HC993]

41 Q41 [HC572]

42 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

## Criticisms of the intimidation scheme

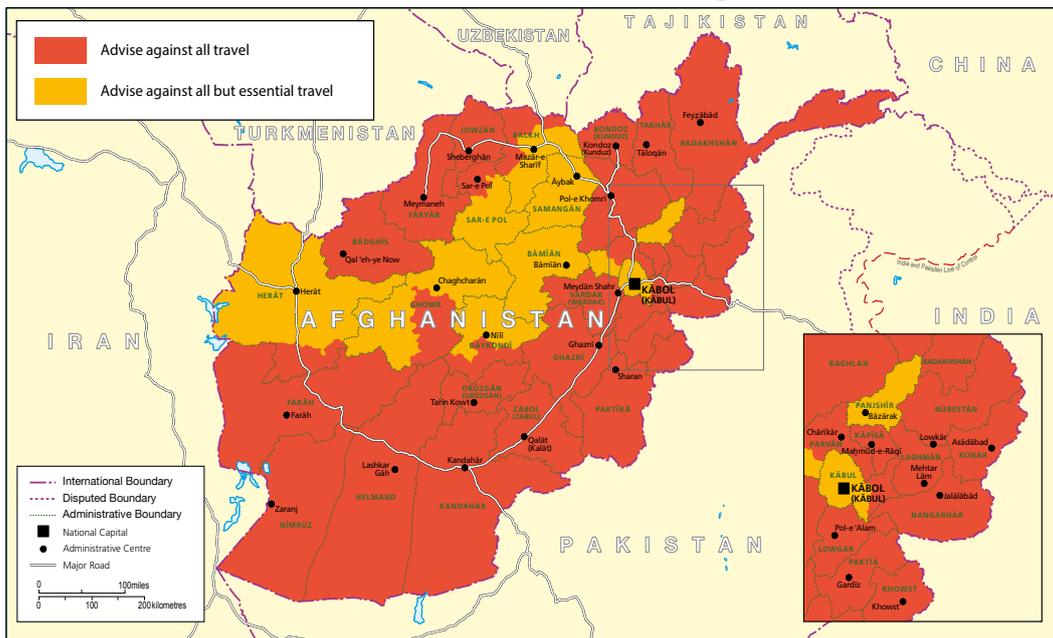
### *A failure to provide adequate protection?*

48. One of the main criticisms of the intimidation scheme is that it does not provide a level of protection that is adequate to the security threat facing former LECs in Afghanistan—particularly as the scheme prioritises relocation within Afghanistan rather than to the UK.

49. As the Home Office’s 2017 country policy and information note on security in Afghanistan highlights, Afghanistan is a dangerous and volatile place. The Home Office’s note cites, for example, the 2017 Global Peace Index which ranked the country “as the second least peaceful country in the world after Syria”, and the UN Secretary General’s June 2017 assessment that the security situation in the country remains “very volatile, with an increase in security incidents in the first five months of the year over the same period in 2016.”<sup>43</sup>

50. Unsurprisingly, the Foreign and Commonwealth Office (FCO) recommends against all travel to a vast swathe of Afghanistan, including 24 provinces and more than a dozen districts across the country, including parts of Kabul. For the rest of the country, the FCO advises against all but essential travel.<sup>44</sup>

### Foreign and Commonwealth Office travel advice: Afghanistan



Source: [Foreign and Commonwealth Office](#)

51. Terrorist attacks are a common menace and, while these often appear to be indiscriminate, the Taliban and other anti-government elements are particularly focused

43 Home Office (August 2017). [Country Policy and Information note: Afghanistan: Security and humanitarian situation](#), p.14

44 Foreign and Commonwealth Office, [Foreign travel advice: Afghanistan](#)

on Government and non-governmental organisation (NGO) targets as well as those from or associated with ‘the West’.<sup>45</sup> According to a 2016 Home Office country profile and information note on the risk from anti-government elements in Afghanistan:

Civilians associated with, or perceived to be supporting the Government, civil society and the international community in Afghanistan, including the international military forces and international humanitarian and development actors, have been subject to intimidation, threats, abductions and targeted attacks by AGEs (anti-government elements), such as the Taliban.<sup>46</sup>

52. Rafi Hottak, a former LEC now resident in the UK, suggested that “it is a fact that the security situation is much, much worse” since the UK pulled out from Afghanistan.<sup>47</sup> Mr Hottak, like the *Daily Mail*, pointed to the resurgence of the Taliban, “in Helmand where the majority of interpreters worked” and the growth of ISIS who will, he contends, “also kill us because of our help to the British”. In his opinion, “Afghanistan is more dangerous than ever”, resulting in interpreters living “in fear of revenge attacks, of kidnappings and torture”.<sup>48</sup> Tom Tugendhat MP told our inquiry that he was personally “aware of one or two [LECs] who are still at risk and whose perception of risk I would trust”.<sup>49</sup>

53. Mr Hottak also queried the scheme’s focus on relocation within Afghanistan, arguing that such relocation “shows a lack of understanding of Afghanistan”, with people moving from the South to the North standing out and becoming the subject of suspicion. Such a person, Mr Hottak suggested, would be “marked’ as an outsider, often from another tribe” and he said that there had been “numerous examples of interpreters having to move and then being again singled out”.<sup>50</sup> The *Daily Mail* also repeated claims that interpreters had been moved on numerous occasions, citing the case of an unnamed senior LEC who had, allegedly, moved five times, and each time been identified as a ‘friend of the infidels’.<sup>51</sup>

54. The MoD has argued that relocation within Afghanistan is—save in exceptional circumstances—sufficient to safeguard former LECs’ security. In a written ministerial statement, on 20 December 2016, the-then Minister, Mike Penning MP, noted that the level “of intimidation faced in these cases [reviewed so far] has not so far been such that we have had to relocate an individual to the UK to ensure their safety”, and the MoD has repeatedly highlighted the fact that only one case so far was deemed to be of such severity as to warrant relocation.<sup>52</sup>

55. The MoD has denied that former LECs have been relocated within Afghanistan more than once, saying that “of the cases where we have awarded financial support to an LEC to relocate within Afghanistan (of which there are 35) there are no cases where LEC have

45 Foreign and Commonwealth Office, [Foreign travel advice: Afghanistan](#)

46 Home Office (December 2016). [Country Policy and Information Note: Afghanistan: Fear of anti-government elements \(AGEs\)](#), p.6

47 LEI0001

48 LEI0001

49 Q6 [HC 572]

50 LEI0001

51 LEI0003

52 [HCWS388](#); Letter from Rt Hon Mike Penning MP to the Chairman, dated 27 February 2017; Letter from Penny Mordaunt MP, dated 12 May 2016

been relocated a second time”. The MoD acknowledged that there have been cases where LECs have claimed additional intimidation after relocation, but argued that “resolving this has not required further relocation”.<sup>53</sup>

### *The investigatory process*

56. The investigatory process itself has also been criticised. In his written evidence, the former interpreter Raffi Hottak accused the IIU of not returning to LECs “threat letters and other details” needed to support their applications. He claimed that former LECs believe the process to be “unfair, unreasonable and shameful”.<sup>54</sup>

57. The *Daily Mail*, in its written evidence to the inquiry, based on its interviews with former LECs, similarly claimed that “it is a matter of considerable annoyance to the translators that documentation such as death threat letters that they provide as ‘evidence’ to the unit is not returned to them, even when they are told their cases are rejected and ask for them”.<sup>55</sup> In addition, the *Daily Mail*’s evidence suggested that when cases were rejected, no explanations were provided. There was also a general sense that the IIU is hard to contact: “calls are not returned and translators have to travel to Kabul for interviews”, thus incurring additional risks.<sup>56</sup>

58. The *Daily Mail* queried how far the IIU goes “in verifying—and proving beyond reasonable doubt—claims of threats made to translators”. For example, it suggested that, “understandably” in the current security context, “there appears [to be] little evidence of UK investigators or their representatives going out to rural areas, towns and cities to investigate a claim or death threat”.<sup>57</sup>

59. Responding to these points, the MoD explained that the IIU conducts its investigations from the NATO base at Hamid Karzai International Airport in Kabul. According to the MoD, the security situation in Afghanistan means that “investigating officers are unable to move outside of secure NATO bases to conduct investigations”. Investigations are, therefore, conducted remotely. The MoD further explained that all claimants are provided with an initial assessment within 24 hours of raising their concerns and that these assessments are either conducted in person or by telephone. The latter, according to the MoD, is sufficient in most cases and obviates the risks to LECs from travelling from locations that may be some distance from Kabul.<sup>58</sup>

60. The MoD highlighted the IIU’s “good links” with Afghan organisations, such as the National Directorate of Security and noted that the unit can draw on these bodies for reports on incidents or for expertise in certain areas, such as the validity of threat letters. The IIU, according to the MoD, will also contact other relevant organisations during the investigatory process, citing a hypothetical case where an LEC had claimed that medical treatment was required because of physical intimidation. In such a case, the IIU would

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53 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

54 LEI0001

55 LEI0003

56 LEI0003

57 LEI0003

58 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

“contact the hospital to validate the claim using the medical reports or commission our own medical examinations”. The MoD also noted that if claimants and witnesses need to travel to Kabul to be interviewed, the IIU would cover the costs of travel.<sup>59</sup>

61. On whether the IIU provided reasons for rejected intimidation claims, the MoD explained that “once the Theatre Intimidation Assessment and Review panel or higher-level panel in the UK has reached a decision on the intimidation claim, the LES [locally employed staff] is orally back-briefed, usually over the phone”. The MoD further noted that written decisions have been provided to LECs on demand, but that this practice was discouraged as it provided a link between the LEC in question and the UK which “can increase their risk”.<sup>60</sup>

62. **The Intimidation Scheme’s investigatory process has been criticised and there appears to be a perception that investigators are hard to contact, aloof and unfamiliar with the actual situation on the ground outside Kabul. While we do not question the sincerity of those who have criticised the investigatory process, we have found little evidence to support the claim that the process is “unfair, unreasonable and shameful”. It is, however, over-dependent on indirect evidence from third parties, such as Afghan Government agencies, since the local security situation makes it too dangerous for Westerners to carry out their inquiries in person.**

63. **The MoD admits that its investigators conduct their work remotely, from the NATO base at Hamid Karzai International Airport. This is a far from ideal situation and, despite the MoD’s assurance that all claimants are provided with initial assessments within 24 hours of their concerns being raised, the fact that investigators are unable to leave their base camp only serves to highlight the serious threats that international actors face in Afghanistan.**

64. **There is clearly a deep suspicion of the Afghan authorities among the LEC community. The Intimidation Scheme, in its current form, has dismally failed to give any meaningful assurance of protection. *The scheme suffers from perceptions that it is unfair and miserly and provides insufficient protection for LECs living in what the UK Government has itself conceded is a ‘dangerous and volatile place’. Such perceptions will persist until the Intimidation Scheme offers a genuine prospect that, when individuals face serious and verifiable threats to their lives, as a result of having helped UK armed forces, they will be allowed to come to the UK.***

### ***The role of the Afghan Government***

65. The importance of the Afghan Government in shaping the boundaries of the Intimidation Scheme (as well as those of the Redundancy Scheme) was mentioned by many witnesses, including the MoD. According to Baroness Coussins, the schemes arose because of inter-governmental discussions between the UK and the Afghan Governments that were:

59 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

60 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

... based on an understanding or an agreement that we should not operate what would effectively be a brain drain and attract what would be regarded as too many educated professionals out of the country at just the time when it needed people like that to rebuild itself.<sup>61</sup>

As a result, Baroness Coussins suggested, “it is only in ‘extreme cases’ that the intimidation policy would agree relocation [to the UK] as an outcome to a claim of intimidation”.<sup>62</sup>

66. The MoD has, unsurprisingly, drawn repeated attention to this inter-governmental understanding in defence of the Intimidation Scheme’s emphasis on relocation to the UK being a last resort. In his letter to the Chairman of the Committee on 12 March 2018, for example, the Minister of State for the Armed Forces, Rt Hon Mark Lancaster TD VR MP, drew attention to the MoD’s “responsibility to respect the Afghan Government’s stated wish that should avoid fuelling a ‘brain drain’ of some of Afghanistan’s brightest and best”.<sup>63</sup> Similarly, in May 2016, the then Minister of State, Penny Mordaunt MP, ruled out a universal relocation scheme for LECs and their families on the grounds that such a scheme “could well result in tens of thousands of people moving from Afghanistan to the UK—against the wishes of the Government of Afghanistan”.<sup>64</sup>

67. It has therefore been suggested that any loosening of the Intimidation Scheme would require the approval of the Afghan Government. Baroness Coussins, for example, expressed her personal view that “there might be more room for manoeuvre in the definition of extreme cases” and that “there is a case for loosening up the policy a bit”, while her fellow LEC Assurance Committee member Lord Stirrup was also personally inclined towards a more “sympathetic approach”.<sup>65</sup> Both, however, pointed to the UK Government’s policy arrangement with the Afghan Government, with Baroness Coussins suggesting that any prospect of reform is “ultimately down to the politics of that arrangement [ ... ] and that perhaps needs to be reconsidered”.<sup>66</sup>

## Conclusions

**68. Afghanistan was, and remains, a highly dangerous place, and we note that, aside from the FCO’s travel advice, the Home Office has also drawn attention to the potential threats that face civilians working for Governmental, civil society and international organisations. In this context, a scheme to protect former LECs is of the utmost importance.**

**69. The first priority of any Intimidation Scheme should be to ensure the safety of individuals, particularly those who have put their own lives on the line when serving for, and alongside, UK forces. However, as it currently exists, the Afghan Intimidation Scheme appears to go to considerable lengths to preclude the relocation to the UK of interpreters and other locally employed civilians who have reported threats and intimidation. Instead, the scheme has prioritised internal relocation and personal**

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61 Q45 [HC 572]

62 Q45 [HC 572]

63 Letter from Rt Hon Mark Lancaster TD VR MP, dated 12 March 2018

64 Letter from Penny Mordaunt MP, dated 12 May 2016

65 Qq57, 60 and 64 [HC 572]

66 Q64 [HC 572]

security measures, with admission to the UK treated as an absolutely last resort. The result is that not one person has been relocated to the UK under the current Intimidation Scheme.

70. It is impossible to reconcile the generous provisions of the Redundancy Scheme, which have allowed the relocation of 1150 Afghan interpreters, other LECs and dependents to enter the UK, with an Intimidation Scheme that has not admitted anyone at all. While we do not criticise the generosity of the Redundancy Scheme—which may well have saved many LECs from vengeance by the Taliban—we strongly suspect that the Afghan Government is reluctant to acknowledge that the country is too dangerous to guarantee the safety of local people who helped the NATO mission to combat the Taliban.

71. Given our Government's own stark assessment of the perilous Afghan security situation, the idea that no interpreters or other former LECs have faced threats and intimidation warranting their relocation to the UK is totally implausible.

72. Much has been made of the need to avoid a supposed 'brain drain' as a major obstacle to a more generous Intimidation Scheme. This is completely disingenuous. If the 'brightest and the best' have to go into hiding, their brains will hardly be available for the advancement of Afghan national development. Moreover, the 'brain drain' avoidance argument, if genuine, should also have precluded hundreds of Afghan LECs being relocated to the UK under the Redundancy Scheme; yet that was allowed to proceed without objection.

73. The fate of interpreters and other locally employed civilians, who bravely served UK forces, and who now fear for their lives, should not be dependent on the wishes of the Afghan Government to deny the reality of the threats which they face. We have a duty of care to those who risked everything to help our armed forces in Afghanistan.

74. We, therefore, strongly agree with Baroness Coussins and Lord Stirrup that there is room for a looser and more sympathetic approach to the application of the Intimidation Scheme, though we accept that the current security situation in Afghanistan makes it difficult to verify the authenticity of threats. We accept that many people at risk of intimidation may have been relocated already under the Redundancy Scheme; but its cut-off date, whilst reasonable from the perspective of redundancy, risks excluding those employed too early to qualify, who are yet at risk of Taliban vengeance. Such people can be saved only by the proper application of the—hitherto useless—Intimidation Scheme.

75. *The Government should therefore invite the LEC Assurance Committee to consider how to apply the existing terms and conditions of the Intimidation Scheme in a looser and more sympathetic way. In doing so, the Assurance Committee and the MoD should look at the policies adopted by other ISAF countries, such as the capped visa programme used by the USA. As part of this work, the Government should move away from its 'relocation in extremis' policy and adopt a more needs-based approach to the Intimidation Scheme. Otherwise, the scheme will continue to lack all credibility.*

## Conclusions and recommendations

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### Locally employed civilians

1. We agree with Tom Tugendhat MP that providing care and support for personnel engaged in conflict—whether as soldiers or as locally employed civilians (LECs)—is an incentive to recruiting such staff for future operations. Furthermore, on grounds of principle and morality, the UK Government owes a duty of care to those who served alongside UK forces. We express our gratitude for the hard work and bravery of the interpreters and other LECs who served with UK forces during the Afghan conflict. (Paragraph 13)
2. We note that the Ministry of Defence has, on many occasions, expressed its appreciation to those who served as LECs in Afghanistan. We also note its claim to have recognised this debt by setting up the Redundancy Scheme and the Intimidation Scheme. The purpose of our inquiry is to assess whether these Schemes operate effectively and whether they discharge our country's debt sufficiently. (Paragraph 14)

### The Redundancy Scheme

3. We understand the disappointment of those former LECs whose employment finished before the cut-off date, and are therefore ineligible to apply for the Redundancy Scheme. We note the suggestions that the cut-off date was arbitrary and that many feel that there was no justification for the date chosen. (Paragraph 29)
4. However, it is important to recognise what the scheme is and what it is not. The scheme is not designed to be a more general scheme of relocation and re-education for LECs. It is a Redundancy Scheme, focused on acknowledging the Government's responsibilities to LECs who have lost their employment because of the drawdown of UK forces in Afghanistan. (Paragraph 30)
5. Given that the total number of former LECs and their dependents relocated to the UK is in excess of one thousand, and that nearly 400 former LECs have benefited from the in-country training and finance aspects, we consider that the Redundancy Scheme has been generous and proportionate in allowing locally employed civilians to settle in the United Kingdom as a result of losing their jobs when UK Armed Forces were withdrawn from Afghanistan. This generosity contrasts starkly with the total failure to offer similar sanctuary to interpreters and other LECs under the provisions of the Intimidation Scheme. (Paragraph 31)
6. Locally employed civilians and their dependents admitted to the UK by means of the Redundancy Scheme have not had to meet the asylum criteria applied to most former LECs seeking relocation to other ISAF states. However, the recent difficulties over payment for an extension of relocated LECs' Leave to Remain could have had serious consequences for those affected and should never have arisen. We are pleased that the Home Secretary has waived these unjustified fees, following an effective and conscientious media campaign. (Paragraph 32)

7. *The Redundancy Scheme has enabled the relocation of a substantial number of locally employed civilians. However, if it was right to bring them to the United Kingdom, it is right to allow them to stay. All relocated LECs should, as a matter of course, be provided with Indefinite Leave to Remain. While the Home Office has agreed to waive the fees for those who have recently been faced with visa extension demands, those who have already paid for such extensions should have their fees refunded.* (Paragraph 33)
8. *The MoD should also consider more seriously how it responds to those who worked for UK forces before the cut-off date and who feel unfairly excluded. In particular, the MoD should examine the possibility of extending its in-country training options to former LECs who left service before 19 December 2012. We suggest, for example, that the Government could provide scholarships and offer training support to educational facilities in Afghanistan.* (Paragraph 34)

### The Intimidation Scheme

9. The Intimidation Scheme's investigatory process has been criticised and there appears to be a perception that investigators are hard to contact, aloof and unfamiliar with the actual situation on the ground outside Kabul. While we do not question the sincerity of those who have criticised the investigatory process, we have found little evidence to support the claim that the process is "unfair, unreasonable and shameful". It is, however, over-dependent on indirect evidence from third parties, such as Afghan Government agencies, since the local security situation makes it too dangerous for Westerners to carry out their inquiries in person. (Paragraph 62)
10. The MoD admits that its investigators conduct their work remotely, from the NATO base at Hamid Karzai International Airport. This is a far from ideal situation and, despite the MoD's assurance that all claimants are provided with initial assessments within 24 hours of their concerns being raised, the fact that investigators are unable to leave their base camp only serves to highlight the serious threats that international actors face in Afghanistan. (Paragraph 63)
11. There is clearly a deep suspicion of the Afghan authorities among the LEC community. The Intimidation Scheme, in its current form, has dismally failed to give any meaningful assurance of protection. *The scheme suffers from perceptions that it is unfair and miserly and provides insufficient protection for LECs living in what the UK Government has itself conceded is a 'dangerous and volatile place'. Such perceptions will persist until the Intimidation Scheme offers a genuine prospect that, when individuals face serious and verifiable threats to their lives, as a result of having helped UK armed forces, they will be allowed to come to the UK.* (Paragraph 64)
12. Afghanistan was, and remains, a highly dangerous place, and we note that, aside from the FCO's travel advice, the Home Office has also drawn attention to the potential threats that face civilians working for Governmental, civil society and international organisations. In this context, a scheme to protect former LECs is of the utmost importance. (Paragraph 68)
13. The first priority of any Intimidation Scheme should be to ensure the safety of individuals, particularly those who have put their own lives on the line when serving for, and alongside, UK forces. However, as it currently exists, the Afghan

Intimidation Scheme appears to go to considerable lengths to preclude the relocation to the UK of interpreters and other locally employed civilians who have reported threats and intimidation. Instead, the scheme has prioritised internal relocation and personal security measures, with admission to the UK treated as an absolutely last resort. The result is that not one person has been relocated to the UK under the current Intimidation Scheme. (Paragraph 69)

14. It is impossible to reconcile the generous provisions of the Redundancy Scheme, which have allowed the relocation of 1150 Afghan interpreters, other LECs and dependents to enter the UK, with an Intimidation Scheme that has not admitted anyone at all. While we do not criticise the generosity of the Redundancy Scheme—which may well have saved many LECs from vengeance by the Taliban—we strongly suspect that the Afghan Government is reluctant to acknowledge that the country is too dangerous to guarantee the safety of local people who helped the NATO mission to combat the Taliban. (Paragraph 70)
15. Given our Government's own stark assessment of the perilous Afghan security situation, the idea that no interpreters or other former LECs have faced threats and intimidation warranting their relocation to the UK is totally implausible. (Paragraph 71)
16. Much has been made of the need to avoid a supposed 'brain drain' as a major obstacle to a more generous Intimidation Scheme. This is completely disingenuous. If the 'brightest and the best' have to go into hiding, their brains will hardly be available for the advancement of Afghan national development. Moreover, the 'brain drain' avoidance argument, if genuine, should also have precluded hundreds of Afghan LECs being relocated to the UK under the Redundancy Scheme; yet that was allowed to proceed without objection. (Paragraph 72)
17. The fate of interpreters and other locally employed civilians, who bravely served UK forces, and who now fear for their lives, should not be dependent on the wishes of the Afghan Government to deny the reality of the threats which they face. We have a duty of care to those who risked everything to help our armed forces in Afghanistan. (Paragraph 73)
18. We, therefore, strongly agree with Baroness Coussins and Lord Stirrup that there is room for a looser and more sympathetic approach to the application of the Intimidation Scheme, though we accept that the current security situation in Afghanistan makes it difficult to verify the authenticity of threats. We accept that many people at risk of intimidation may have been relocated already under the Redundancy Scheme; but its cut-off date, whilst reasonable from the perspective of redundancy, risks excluding those employed too early to qualify, who are yet at risk of Taliban vengeance. Such people can be saved only by the proper application of the—hitherto useless—Intimidation Scheme. (Paragraph 74)
19. *The Government should therefore invite the LEC Assurance Committee to consider how to apply the existing terms and conditions of the Intimidation Scheme in a looser and more sympathetic way. In doing so, the Assurance Committee and the MoD should look at the policies adopted by other ISAF countries, such as the capped visa programme used by the USA. As part of this work, the Government should move away*

*from its 'relocation in extremis' policy and adopt a more needs-based approach to the Intimidation Scheme. Otherwise, the scheme will continue to lack all credibility.*  
(Paragraph 75)

## Annex 1: The schemes in context

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### Comparisons with the Iraq scheme

UK Forces also employed a substantial number of interpreters and other LECs during their engagement in Iraq between 2003 and 2011. A scheme to support LECs was established in 2007, following a number of them being murdered as a direct result of their association with British forces.

Unlike the schemes available for Afghan LECs, support for Iraqi LECs came in the form of a single, unified scheme. The offer was, as the MoD explains, “open to all staff (not just interpreters) who met the scheme criteria” of having been in service on or after 8 August 2007; had 12 months or more continuous service; or were forced to resign due to exceptional circumstances”.<sup>67</sup> Successful applicants were entitled to the following packages, all of which were administered by the Foreign and Commonwealth Office (FCO):

- A one-off package of financial assistance, determined by their length of service (the maximum being 12 months’ salary) and family size (up to a maximum of five dependents);
- Exceptional leave to enter the UK outside of immigration rules for serving staff; and
- The opportunity of resettlement in the UK for up to 600 individuals (former staff and their families) through the UK’s Gateway (refugee resettlement) programme (to be eligible for this route, applicants must have been recognised as a refugee from Iraq by the United Nations High Commissioner for Refugees).<sup>68</sup> This opportunity was available to those in UK employment after 1 January 2005, but who had left before 8 August 2007 and had completed at least 12 months’ service. The last date for applications for former LECs in Iraq was 19 May 2009.

In a further contrast with the schemes provided for LECs in Afghanistan, the Iraqi scheme enabled qualifying staff to self-assess whether the risks they faced required relocation to the UK. Those who left their employment before 2005 were excluded altogether from the Iraqi scheme.<sup>69</sup>

### Main distinctions between the Afghan and Iraq schemes

- The redundancy payment was more generous under the Afghan redundancy scheme, in that all were entitled to 18 months’ pay, whereas the maximum for Iraqi LECs was 12 months (plus any additional payments arising from the number of dependents). The additional option of training with financial support was available under the Afghan but not the Iraqi scheme.

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67 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

68 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

69 In 2015, two Afghan LECs, including Mr Hottak, challenged the Afghan schemes by way of judicial review on the basis that the differences between the Iraqi and Afghan schemes amounted to discrimination on the grounds of nationality, a protected characteristic under the Equality Act 2010. The judgements of the High Court and, in a subsequent case, the Court of Appeal provide useful discussions on the distinctions between the Afghan and Iraqi schemes: *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2015] EWHC 1953 (Admin); *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2016] EWCA Civ 438

- The relocation options offered by the Afghan and Iraqi schemes were also different. Under the Iraqi scheme, those who were employed on 8 August 2007 and who had been employed for at least 12 months were able to relocate to the United Kingdom, as were a number (via the Gateway programme for Asylum) who did not otherwise qualify.
- The Afghan Redundancy Scheme allowed relocation to the United Kingdom to those who were still in employment in December 2012 with 12 months' service and satisfied the relevant criteria. There was no quota. There was also no arrangement in place with the UNHCR and a third country equivalent to the Gateway programme for asylum. Relocation to the United Kingdom under the Intimidation Scheme is theoretically available in extreme circumstances; but, as noted in Chapter Four, in its current form it has never resulted in a successful resettlement.
- The Iraqi scheme permitted the relocation of extended family (i.e. parents) as well as immediate dependents. The Afghan scheme excluded this.<sup>70</sup> Only a spouse and any children from that marriage were considered. The UK does not recognise multiple marriages, so a successful applicant for relocation who had more than one spouse would have to choose which family they wished to bring with them.<sup>71</sup>

According to the MoD, as of 12 March 2018, 1,328 LECs and dependents had been relocated to the UK under the Iraqi scheme and around 1,150 LECs and dependents had relocated to the UK under the terms of the Afghan Redundancy Scheme.<sup>72</sup>

### **Why are the Iraqi and Afghan schemes different?**

The differences in the arrangements for Iraqi and Afghan LECs were the subject of legal challenge by two former Afghan LECs, who argued that the differences amounted to discrimination on the grounds of nationality and thus contravened the Equality Act 2010. The High Court ruled, on the substantive point, that as the provisions of the Equality Act did not extend beyond the United Kingdom, there was no basis upon which the Afghan schemes could be ruled illegal. The Court of Appeal upheld this judgement.<sup>73</sup>

In its submissions to the Court, the Government justified the differences in the schemes on the basis of the different circumstances on the ground in Afghanistan compared to Iraq. It was and remains the Government's view that the risk to life to former LECs in Afghanistan is considerably lower than that facing LECs in Iraq.<sup>74</sup> According to Jonathan Iremonger:

In Iraq between 2005 and 2007, it was clear that a lot of our locally employed civilians were being specifically targeted by Shi'ite or Sunni groups. We

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70 Q48 [HC 993]

71 *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2015] EWHC 1953 (Admin)

72 Letter from Rt Hon Mark Lancaster TD VR MP to the Chairman, dated 12 March 2018

73 *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2015] EWHC 1953 (Admin); *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2016] EWCA Civ 438

74 *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2015] EWHC 1953 (Admin); *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2016] EWCA Civ 438

do not have exact figures for how many were killed, but it was somewhere between 20 and 30 that we know about, including 17 working in police interpreting. In Afghanistan it has never been that level of threat.<sup>75</sup>

The principal reason why the Iraqi scheme was unified, rather than separated into redundancy and intimidation elements, was that the conditions on the ground in Iraq made it impossible to assess or verify claims of intimidation.<sup>76</sup>

The High Court concluded that, although the Iraqi scheme was clearly more advantageous than the Afghan schemes in terms of securing relocation to the UK, the Government was justified in operating different criteria given the different circumstances prevailing in the two countries. On that basis, even if the Equality Act had granted extra-territorial jurisdiction, a claim of discrimination on the grounds of nationality was not made out:

The claimants are, in my view, right to suggest that, in so far as the two schemes provide opportunities to relocate to the United Kingdom, the Iraqi one was more generous to locally employed staff than the Afghan. However, the reason why the schemes provide for different opportunities to relocate to the United Kingdom is not because of the nationality of those who provided services to HMG. It is because they did so in different countries, at different times, with different levels of threat and risk and in circumstances which generated different opportunities to investigate that risk. For that reason, I do not accept that there was direct discrimination on grounds of nationality. Furthermore, for both the purposes of direct and indirect discrimination there were material differences between the circumstances in the two countries and in the circumstances of locally employed staff in each.<sup>77</sup>

## International comparisons

The MoD has described the support package as “more generous than that of other nations, as we are one of the few countries to accept local staff into the UK *without* requiring them to meet asylum criteria, and the only nation to have a permanent team based in Kabul to investigate claims of intimidation”.<sup>78</sup> The Redundancy Scheme does not require LECs to demonstrate evidence of intimidation or persecution. The in-country training and education options offered by the scheme are also, according to the Jonathan Iremonger, “unique among NATO nations”.<sup>79</sup> In August 2015, the MoD issued a ‘myth buster’ news release which sought to respond to a number of criticisms of the Afghan schemes, including the claims that the UK scheme compared unfavourably with those of other nations.<sup>80</sup>

75 Q104 [HC 933]

76 *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2015] EWHC 1953 (Admin); *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2016] EWCA Civ 438

77 *R (Hottak) v Secretary of State for Foreign and Commonwealth Affairs* [2015] EWHC 1953 (Admin), para 56 [Lord Justice Burnett]

78 Letter from Rt Hon Michael Fallon MP to the Chairman, dated 18 September 2015. Emphasis in original.

79 Q66 [HC 993]

80 ‘[HMG Policy on Afghan Interpreters](#)’, MoD News Release, 21 August 2015; Q66 [HC 993]

## The United States

The United States enacted a series of legislative proposals to allow LECs employed by the US to obtain Special Immigrant Visas (SIVs). There are three programmes overall:

- one is a permanent programme specifically for LECs who acted as interpreters and translators in either Iraq or Afghanistan for at least one year. This programme is capped at 50 persons (excluding dependents) per year.
- the other two SIV programmes for Iraqis and Afghans are temporary. One is for certain Iraqis who were employed in Iraq by, or on behalf of, the US Government for at least one year during a specified period. It was capped at 5,000 “principal aliens” annually for FY2008 through FY2012 and included a provision to carry forward any unused numbers from one fiscal year to the next. It expired at the end of FY2013, but was subsequently revived to provide for the issuance of no more than 2,500 visas to principal applicants after 1 January 2014.

There is a similar SIV programme for Afghans who were employed in Afghanistan by, or on behalf of, the US Government or by the International Security Assistance Force (ISAF). The programme was capped at 1,500 “principal aliens” annually for FY2009 through FY2013, with a provision to carry forward any unused numbers from one fiscal year to the next. The most recent statutory authority provided for the issuance of no more than 7,000 visas to principal applicants after 19 December 2014.

The eligibility criteria for these programmes varies slightly, but essentially requires at least one year’s service in an LEC role and an attestation of good and faithful service from the Chief of Mission of the department or agency where the LEC was employed. The requirement for service on the temporary Afghan scheme was raised to two years’ service for applications made after September 2015.

The SIV programme has been subject to criticism. The requirement of Chief of Mission attestation at the outset of the process resulted in a considerable bottleneck. Once eligible LECs are admitted to the scheme, the visa application process is slow and administratively onerous, usually requiring in-country interviews along with the submission of large quantities of documentation. Application numbers are capped and the two temporary schemes will conclude once all of the allocated visas have been issued.

To the end of FY2015, more than 37,000 individuals were granted special immigrant status under the three SIV programs for Iraqi and Afghan nationals. Principal applicants accounted for about 15,000 of the total; the rest were dependent spouses and children.<sup>81</sup>

In February 2017, Thomas Coghlan from *The Times* quoted to us the figure of 52,000 former LECs and dependents who had been given visas by the US, which is arrived at by adding the 2016 figures to the 37,000 total from 2015.<sup>82</sup>

81 Congressional Research Service, [Iraqi and Afghan Special Immigrant Visa Programs](#), 26 February 2016

82 [Oral evidence taken on 7 February 2017](#), HC 993 (2016–17), Q15

### *The broader ISAF approach to LECs*

Dr Sara de Jong, a Research Fellow at the Open University, has highlighted, in her oral and written evidence to the Committee, a lack of uniformity in the approach adopted by the different nations involved in ISAF and the successor mission Operation RESOLUTE SUPPORT. According to Dr de Jong:

While the NATO ISAF and RS missions were coordinated on an international level, there is no international coordination and harmonisation regarding the relocation and intimidation schemes for former [LECs]. On the contrary, relocation and protection/intimidation schemes are different from country to country and variations between the schemes depend on seemingly arbitrary circumstances, such as the political climate, the lobbying success of veterans and other advocates as well as ad hoc discretionary decisions.<sup>83</sup>

Such a lack of coordination, Dr de Jong has argued, is “quite striking” when one considers that “the Taliban would not necessarily discriminate between somebody who has worked for the Brits and someone who has worked for the French. The notion is that it is the West that is bad”.<sup>84</sup>

According to Dr de Jong, other differences between the UK and its ISAF partners include the fact that:

- Many nations do not have dedicated schemes for LECs and applications for relocation are dealt with using general rules on asylum, which differ from country to country and do not necessarily take account of service rendered as an LEC.<sup>85</sup> The Ambassador of the Federal Republic of Germany, for example, told us that the German Government “does not relocate Afghan local staff on a general basis” and that its interior ministry assesses threat-based relocation requests on a case by case.<sup>86</sup>
- There is no dedicated charity or advocacy association for LECs in the UK, in contrast to the US, France and Germany.<sup>87</sup> In Germany, German Operations Command has set up a coordination task force, which connects Afghan LECs who are resettled to Germany with volunteers who act as ‘buddies’ or ‘mentors’. The volunteers are mostly active and veteran Bundeswehr soldiers, who can provide help with finding permanent accommodation, employment, access to education as well as access to the ‘host’ community.<sup>88</sup>
- Internal relocation schemes to move LECs at risk to new locations within Afghanistan are often implemented in ways that do not take account of the family

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83 LEC0001

84 Q15 [HC 572]

85 LEC0001

86 Letter from the Ambassador of the Federal Republic of Germany, Dr Peter Ammon to the Chairman, dated 23 November 2017

87 However, the Sulha network represents the majority of LECs who were resettled as part of the Redundancy Scheme (<https://twitter.com/sulhanetwork>)

88 LEC0001; Q36 [HC 572]

and tribal structures and region-specific characteristics within the country—“a person who relocates within Afghanistan without obvious connections to the region is immediately suspect and isolated from essential support structures”.<sup>89</sup>

In addition to Dr de Jong’s points, it is worth noting that schemes like the UK’s also do not take account of polygamous marriage, which is not uncommon in Afghanistan. The UK does not recognise dual or multiple marriages, and LECs admitted to the UK with more than one spouse would have to choose which one and which related dependents to bring with them. Parents are also excluded from the Afghan schemes.

## Formal minutes

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Members present:

Rt Hon Dr Julian Lewis, in the Chair

Leo Docherty	Johnny Mercer
Martin Docherty-Hughes	Mrs Madeleine Moon
Rt Hon Mr Mark Francois	Gavin Robinson
Graham P Jones	Rt Hon John Spellar

The Draft Report (Lost in translation? Afghan Interpreters and Other Locally Employed Civilians), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 75 read and agreed to.

Annex agreed to.

Summary agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 5 June at 10.45am

## Witnesses

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Oral evidence was received over two Parliamentary sessions.

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page 2016–17](#) of the Committee’s website.

### Tuesday 7 February 2017

*Question number (Session 2016–17)*

**Thomas Coghlan**, Middle East and North Africa, K2 Intelligence, and former Times journalist; **Colonel (Rtd) Simon Diggins OBE**, former British Defence Attaché in Kabul; and **Rafi Hottak**, former interpreter for British Forces in Afghanistan

[Q1–42](#)

**Rt Hon Mike Penning MP**, Minister of State for the Armed Forces; and **Jonathan Iremonger**, Assistant Chief of Staff, J8 at Permanent Joint Headquarters

[Q43–108](#)

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page 2017–19](#) of the Committee’s website.

### Tuesday 28 November 2017

*Question number (Session 2017–19)*

**Tom Tugendhat MBE**, MP for Tonbridge and Malling, and **Dr Sara de Jong**, Open University

[Q1–30](#)

**Baroness Coussins**, Member, Locally Employed Civilians Assurance Committee; and Marshal of the Royal Air Force the **Lord Stirrup KG GCB AFC**, Member, Locally Employed Civilians Assurance Committee

[Q40–60](#)

## Published written evidence

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Written evidence was received over two Parliamentary sessions.

The following written evidence was received and can be viewed on the inquiry publications pages for the [2016–17](#) and [2017–19](#) sessions of the Committee’s website.

LEI and LEC numbers are generated by the evidence processing system and so may not be complete.

### Session 2016–17

- 1 Daily Mail ([LEI0003](#))
- 2 Ministry of Defence ([LEI0004](#))
- 3 Ministry of Defence ([LEI0005](#))
- 4 Rafi Hottak ([LEI0001](#))

### Session 2017–19

- 5 Dr Sara De Jong ([LEC0001](#))
- 6 Mr Nazir Ayeen ([LEC0002](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2017–19

First Report	Gambling on 'Efficiency': Defence Acquisition and Procurement	HC 431
Second Report	Unclear for take-off? F-35 Procurement	HC 326
Third Report	Sunset for the Royal Marines? The Royal Marines and UK amphibious capability	HC 622
Fourth Report	Rash or Rational? North Korea and the threat it poses	HC 327
First Special Report	SDSR 2015 and the Army	HC 311
Second Special Report	Armed Forces Covenant Annual Report 2016	HC 310
Third Special Report	Investigations into fatalities in Northern Ireland involving British military personnel: Government Response to the Committee's Seventh Report of Session 2016–17	HC 549
Fourth Special Report	Gambling on 'Efficiency': Defence Acquisition and Procurement: Government Response to the Committee's First Report	HC 846
Fifth Special Report	Unclear for take-off? F-35 Procurement: Responses to the Committee's Second Report	HC 845
Sixth Special Report	Sunset for the Royal Marines? The Royal Marines and UK amphibious capability: Government Response to the Committee's Third Report	HC 1044