SU Approach to Duty of Care

Duty of Care Approach

Stabilisation Unit
April 2017

Summary:

Duty of care is a fundamental concern for any employer or organisation that takes the safety, security and welfare of its people seriously. This is especially true for an organisation like the Stabilisation Unit (SU), which, by its very nature, places people in locations of increased risk to support the UK Government's Stabilisation agenda. This document outlines our approach to duty of care for our deployable expertise.

Setting:

1. The Stabilisation Unit is a cross-government, civil-military-police unit supporting UK government efforts to tackle instability overseas. It supports integrated co-ordination of UK government activities in fragile and conflict-affected states by acting as a centre of expertise on conflict, stabilisation, security and justice. It recruits, trains and deploys qualified and experienced civilian experts, civil servants and police officers to support UK government activities in fragile and conflict-affected states, and to multilateral missions.

2. Authority for the management of Duty of Care is bestowed on the Stabilisation Unit by the cross-Whitehall 'Network Board'; this is the board made up of Chief Operating Officers from the main NSC departments with responsibility for policies relating to, and oversight of, deployed government workers.

Approach:

3. The Stabilisation Unit aligns its approach to duty of care with the five standards articulated in the 'Voluntary Guidelines on Duty of Care for Seconded Civilian Personnel' (these are; Legal and Regulatory Compliance, Safety and Security Risk Management, Informed Consent, Competent Workforce and Quality Management), these are compliant with our obligations under UK Common Law and with ISO 31000:2009, "Risk management – Principles and guidelines" which provides principles, framework and a process for managing risk. It can be used by any organization regardless of its size, activity or sector.

4. Due to the varying employment methods the SU utilises (external experts, core civil servants, HMG fixed-term contracts, police employees) the delivery and responsibility of duty of care does not always sit with the SU, but should meet our standards where required.

   Legal and Regulatory Compliance
   - The Stabilisation Unit is bound by UK Common Law regarding those individual's deployed through our systems, this is based on precedence and can be open to a degree of interpretation.
   - What is clear is that an individual's employer always owns the duty of care for an employee, whilst undertaking their duties. This duty cannot be abrogated, delegated or transferred, but the management and oversight of delivery of Duty of Care can be shared.
   - The leading judicial test for a duty of care in England was found in the judgments of *Caparo Industries plc v Dickman*, in which the House of Lords set out the following three-part test:
     - Harm must be a "reasonably foreseeable" result of the defendant's conduct;
     - A relationship of "proximity" must exist between the defendant and the claimant;
     - It must be "fair, just and reasonable" to impose liability.

- For inherently dangerous work a greater degree of care must be taken (*Hopps v Mott MacDonald Ltd* [2009]).

Safety and Security Risk Management
- The SU has an in-house security team to advise on and, where applicable, manage the safety and security aspects of its deployments. The team's principal responsibilities include:
    - ensuring risk assessments are completed for each deployment;
    - briefing and debriefing deployees;
    - conducting field security assessments;
    - drafting security submissions for risk owners; and
    - coordination with partner HMG and non-HMG security organisations.

- *Threat Assessment*. A threat / risk assessment is completed for every deployment to an area designated by FCO as 'amber' or 'red' in terms of their travel risk advice. This assessment will take into account the nature of the work, the experience / qualifications of the deployee, the key threats / risks, the vulnerability to these threats and the mitigations provided by the field security platform. In other instances where a threat assessment isn't necessary, the deployment is still logged with the Head of Deployment via a notification letter.
- *Platform Assessment*. For the reasons described above, an assessment of the security platform will also be completed for deployments to non-HMG platforms. Although this generally requires a field visit to develop a detailed understanding of all aspects of security management (and is strongly advised for high risk deployments), the option also remains to complete this assessment remotely. This assessment and its judgements will be used to brief senior risk owners on the assessed capacity of its security management system to deal with the prevalent threats / risks.
- *Welfare Assessment*. In line with HMG best practice, the SU also seeks to evaluate the welfare provisions which apply to our deployees. This is done via outreach to the platforms, de-briefing from deployees and welfare visits. Issues which fall under the welfare remit include accommodation standards, sustenance standards, 'down time', breather breaks, and the extent to which the individual job matches their pre-deployment expectations.

Informed Consent
- Informed consent is a key principle and applies to all stakeholders involved in the deployment. Risk owners and deployees need to make decisions with a comprehensive understanding of threats, mitigations and levels of residual risk; the security platform also needs to be clear on HMG expectations.
- A safety and security instruction (SSI) is written for a high risk deployment. This document ties together the security aspects of the deployment. It includes:
    - the threat / risk assessment;
    - details of the task;
    - the training required;
    - qualifications and experience of the selected deployee;
    - a judgment on the field security platform; and
    - any specific safety and security instructions for the deployment;

- This document will be used to brief the deployee and is recorded as part of the deployment paperwork. This part of the process has an important role in ensuring informed consent and includes a reminder to the expert that he or she is under no obligation to deploy and has the right to withdraw at any stage with no adverse consequences.

Competent Workforce

- A key aspect of managing risk is ensuring, as far as is reasonable, that deployees are appropriately trained and briefed on risks to safety, security and health.
- The SU has a number of training contracts to meet its deployment requirements:
- For deployments to HMG platforms (e.g. embassies, DfID country offices and mod MOD establishments) it will train to the level of SAFE or SAFE+ (the FCO's pre-deployment training package) in line with current One HMG training policy;
- For non-HMG platforms (multilateral HQ's and missions), an additional hostile awareness module has been included as a mitigation to provide deployees greater expertise and confidence in managing their own security. This module emphasises advanced and remote area first aid and challenges delegates with complex and demanding scenarios;
- Other training courses include: a firearms course for serving police officers in the use of firearms for self-protection; a hostile environment driving course and an Armoured Vehicle Driving Course.

Quality Management
- The SU ensures the quality management of both the continuing provision of duty of care and the wider impact of the deployment. It does this through:
- Continual engagement with platforms regarding changes to their safety, security or welfare architecture;
- A formalised travel plan for undertaking platform safety & security and welfare assessments;
- A routine training revision schedule;
- Staggered welfare and well-being interviews and assessments;
- Pre-, during and post-deployment briefings with welfare, policy and lessons leads.

Practical delivery:

5. The SU has a thorough and clear line of control to ensure that we fulfil our Duty of Care obligations; these have been approved as 'best practice' by DfID's Internal Audit Department. The SU implements duty of care in the following way:
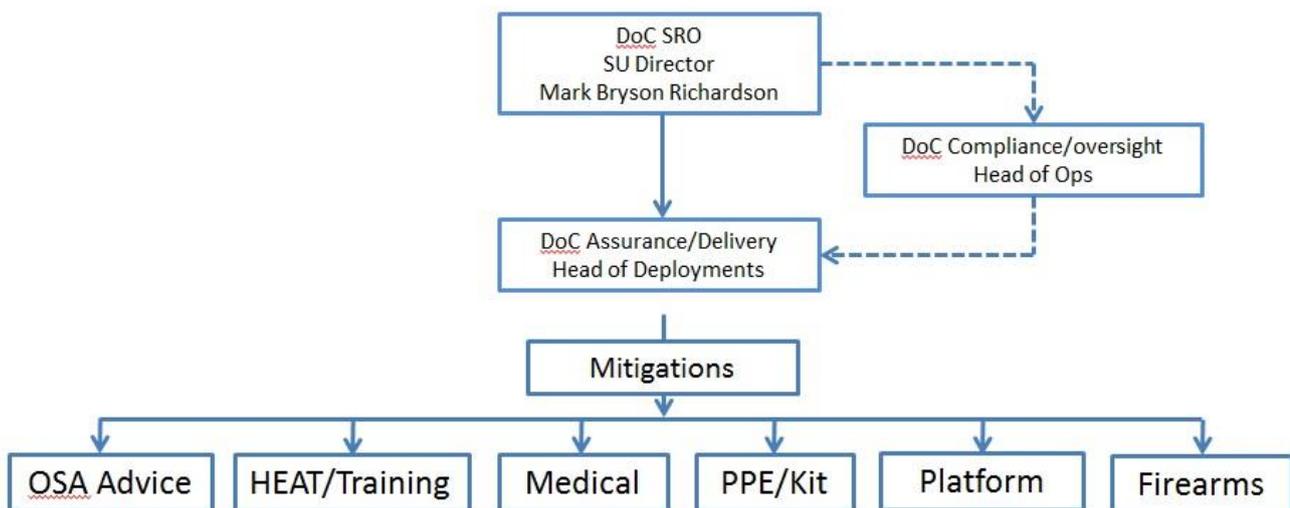
Background:

6. The SU primarily deploys four types of individuals, these are:

- **Deployable Civilian Experts:** A core pool of experts with various specialisms. Usually deployed for a short period of time (between a few days to a few months) through a contract with our

embedded commercial partner. The embedded commercial partner is responsible for their duty of care and many elements of their preparation (medical clearance, inoculations etc) with the SU managing many elements to ensure the deployees meet our standard (pre-deployment training, in-country security assurance etc).

- **HMG-Fixed term contracts:** externally recruited individuals brought in to undertake a specific function, generally on behalf of the FCO. Predominantly deployed to multilateral institutions and missions usually for a prolonged period of time (12 months+). The FCO holds the duty of care of these individuals, the management and oversight of which is undertaken in its entirety by the SU.
- **Police:** A pool of serving officers who are deployed in strategic advisory and policing functions. Predominantly deployed to multilateral institution and missions usually for a prolonged period of time (12 months+). Duty of care remains with the officer's Chief Constable, the management and oversight of which is undertaken in its entirety by the SU.
- **Core Staff:** Core SU employees who will often undertake short-term activity, generally of a strategic nature, and deploy to multilateral and HMG platforms. Duty of care is held by their home department, the management and oversight of which is undertaken in its entirety by the SU.