



DUTY OF CARE TO EMPLOYEES ON DEPLOYED OPERATIONS

AN ARMORGROUP PERSPECTIVE

1. Introduction

This paper is presented by ArmorGroup, a leading supplier of defensive protective security services and security training, as a statement of its position on the exercise of care, known as the 'Duty of Care', by contractors towards employees deployed in support of HM Government operations overseas. The issues are not confined to official duties, however, for ArmorGroup believes that the issues and the responsibilities of employers and the UK Government are equally applicable to any employee who is sent to live and work in hazardous environments overseas.

The increased use of civilian contractors on, or close to active military operations is not a new concept and the roots of the present exercise date back to before the Falklands campaign, when civilian technicians accompanied naval expeditionary forces to maintain vital equipments. More recently, military logistic capacity has been stretched through operations in the Balkans to a situation today where the civilian component of operations in Afghanistan and Iraq are taken for granted.

Civilian contractors can provide vital support services to the military across a broad spectrum of specialist fields and there is no shortage of civilian capacity to enhance shrinking government resource. Civilian contractors, however, do not share the same levels of protection from civilian court action as does the military, especially when the greater majority of these operations, even when hazardous in extreme, are conducted without declaration of war by HM Government.

Civilian contractors are therefore operating today, with good intent but with insufficient protection when their employees are detained, stressed, injured, or killed. ArmorGroup recognizes the issues with the benefit of twenty five years' experience in operations in hazardous zones. It shares its concerns and offers some advice for less experienced contractors who may be required to place their employees in 'harms way'. 'Harms way' is not such an exotic scenario as so often thought for while contractors may envisage Iraq or Afghanistan in that context, the phrase applies equally within Europe, or even the UK itself, where operating conditions can pose enhanced risk to employees – doctors mugged for their drugs, executives stabbed for their valuable cars, and firemen stoned while putting out fires.



2. The issues

Contractors assign employees to unstable or otherwise hazardous regions and have for the past ten years applied risk mitigation practice that today might seem perfunctory. That is not condemnation of the practice then, but the view from today looking back at protective measures considered adequate at the time.

In times past the possibility that an employee might be kidnapped could be countered with a special risks insurance policy; the likelihood of contracting malaria could be raised as a concern by the in-house travel department; and the promise of security from a teetering regime might provide adequate re-assurance that if anything went wrong it would not be the company's fault or subsequent problem.

The provision of advice and precaution for such activity within the UK is an established responsibility, with Health & Safety Executive and other legal structures in place, yet far greater hazards may be encountered on operations overseas and without any established formula for the mitigation of the risks. Research carried out in August 2006 by Continental Research amongst 200 mid-sized companies, on behalf of ArmorGroup, highlights the following lack of focus on the issues raised above:

- 25% had sent employees to countries on the FCO's "don't go to" list;
- Over 80% of those employees who had been sent to these countries had received no pre-deployment or hostile environment awareness training of any kind prior to their posting;
- 80% believed that pre-deployment training should be mandatory for every employee being sent to these types of countries
- Over 20% of senior managers who sent their employees to these countries were unsure if their company's Employers Liability nor Personal Accident insurance covered them or their families for personal injury or death if they operated in one of these countries

These parochial views provide little protection today when a company might, in its defence, have to demonstrate that it exercised its duty of care by taking all reasonable precautions. A contractor's failure to take all reasonable precautions will today attract the censure of employees, their families, clients, shareholders, trades unions, other pressure groups and courts.



3. Contractors responsibilities

ArmorGroup believes it is the responsibility of contractors, and in particular their boards of directors, to properly prepare for every contingency likely to be encountered by employees on deployed operations. A major part of the solution to this problem is for contractors deploying personnel into operational areas to consider every aspect of their employees' role, operating conditions and likely scenarios and then implement a risk mitigation programme before deployment. There can be no margin for catch-up once employees have been deployed so security planning needs to be undertaken even while contract bidding takes place.

As part of this risk mitigation process, ArmorGroup recommends that contractors:

a. Conduct a full risk assessment on the proposed role and region

Contractors would do well to study the proposed region for deployment and to assemble a risk profile, using international and local intelligence, covering:

- Politic situation;
- Economic conditions;
- Social threat, such as mugging, murder and lethal driving environment; and
- Likelihood of disease.

b. Develop a comprehensive risk mitigation programme

Contractors need to use the information gathered in the risk profile to put in place effective and clearly understood counter-measures for their employees, ahead of any deployment.

c. Select employees on maturity and survivability and not simply technical ability

Contractors should also consider recruiting against a specified profile such that prospective employees are screened for intellectual as well as physical suitability for a particular task in a given region. This requires profile definition and not just a reliance on sheer technical competence and education in lieu of maturity, steadiness and good health. At the point of departure a contractor must be able to say that employees were selected on survivability as much as on technical ability.

d. Brief and train employees for the worst and not assume the best

Contractors need to ensure employees are fully briefed on the threats that they are likely to face, including previous incidents and current hostile trends, as much as the mission. This should be supported by in-depth country and cultural awareness briefings as well as suitable training in basic first aid, radio communications, health, navigation, specialist driving and security awareness.



- e. Equip employees with suitable clothing, communications and first aid materials**
Contractors need to ensure that employees deploy with personal protective security equipment which is relevant for the threat level of the region; this will be different for each region, stretching from first aid kits and mosquito nets to body armour, but must be considered in advance so that employees are not left to equip themselves on arrival on deployment, for cost and quality reasons.
- f. Employ appropriate risk management and security in theatre**
It is no longer acceptable for contractors to deploy employees to hazardous regions without providing them with the ability to work and live securely and confidently. Depending on the threat assessment companies should provide close protection advisers or protective security details or, at the very least, provide employees with secure accommodation to allow them to relax in safety.
- g. Prepare contingency planning for injury, kidnap and death, then rehearse**
This year over 24 contractors have been kidnapped in Nigeria alone while there will be countless, non-reported accidents worldwide. Companies should have detailed plans in place to enable their senior management to mitigate serious incidents relating to their employees, whether a road traffic accident to the “express kidnapping” activities which are becoming more widespread in Nigeria. They should also ensure that employees have understood the plans and are thoroughly rehearsed in all aspects of incident procedures, so that they become second nature in case of a real emergency.
- h. Scale up in-house response capability for casualty welfare**
Companies need to be aware that emergency services in the world’s more chaotic regions are unlikely to be of the same quality or as easily accessible as they are in the UK. It behooves companies to ensure that their employees are aware of the medical and diplomatic support available to them in case of serious illness and also have an effective, efficient and timely casualty evacuation process in place.
- i. Overhaul personnel documentation to facilitate efficient incident response**
It is a contractor’s responsibility to handle response to incidents relating to employees, whether the incident involves injury, death or illegal detention by assailants, kidnappers, or even police. Before deployment, employers must have in place the relevant personnel records to facilitate effective notification of next of kin, in case of an incident, as well as those authorities which need to be informed in-theatre, from the British Embassy and local police to the relevant embassy for foreign employees.



j. Fully brief insurers

There is little guidance given to employers sending their employees overseas about insurance, beyond the IOD's advice that businesses "may want to consider" travel insurance for employees who frequently do business overseas. However, many insurance policies, both employers' liability and personal accident, may not give cover in hazardous regions or those on the Foreign and Commonwealth Office's 'don't go to' list. It is imperative that companies not only ensure their insurers are aware of where they are operating but that their employees are well covered for any eventuality, including death in service.

4. Government responsibilities

ArmorGroup also believes that Government departments have a responsibility to those companies being used to out-source Government's manpower services. As such these departments must necessarily ensure they bear in mind competing companies' commitment to 'duty of care' towards their employees when weighing up bids to provide services on deployed operations and that contractors, once selected, are provided support to underpin the duty of care.

In particular, HM Government should:

- a. specify the need for 'duty of care' in requests for proposal and include pertinent questions by which contractors' commitment to duty of care can be measured;
- b. issue relevant regional risk analysis to facilitate contractors' comprehension of the risks and threats likely to be encountered;
- c. recognize the value of relevant pre-deployment training to the exercise and consider the cost of such training in contractors' rates;
- d. establish minimum insurance provisions and facilitate the development of insurance policies that can respond to the risks likely to be encountered by contractors and employees operating in hazardous regions; and
- e. recognize contractors as additional 'national capacity' with diplomatic or force status befitting the operational scenario.



5. Summary

As noted before, ArmorGroup believes it is the responsibility of contractors, and in particular their boards of directors, to properly prepare for every contingency likely to be encountered by employees on deployed operations. The risks must be identified, analysed and effective and realistic counter measures prepared and disseminated to employees. Intellectual preparation must be matched by practical precautions and the entire exercise documented. Employees, clients, media, pressure groups and shareholders do not forgive slovenly preparation when lives are lost or spoiled and the buck stops at the main board, whose responsibilities are defined in UK law and are more frequently applied abroad.

There are many competent providers of analysis, advice, training and risk management and it makes sense for contractors to satisfy corporate governance and the duty of care by seeking suitable expert support for the process of detailed and diligent preparation.

Duty of care is not so much an act, or series of them, so much as a linked process designed to reduce the risk and respond satisfactorily to its manifestation; such that the court's conclusion can only be that the company did all that it reasonably could in the circumstances.

Christopher Beese
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Notes to Editors

ArmorGroup International plc

For over 25 years ArmorGroup has been recognised as a leading provider of defensive, protective security services to national governments, multinational corporations and international peace and security agencies operating in hazardous environments. It has 9,000 highly trained and experienced employees and long term operations in 38 countries. Over the past two years it has supported its clients in over 160 countries across the Middle East, Africa, North and South America, the CIS and central Asia. ArmorGroup International plc is headquartered in London and listed on the London Stock Exchange.

ArmorGroup provides its services through three core divisions: Protective Security Services, Security Training and Weapons Reduction and Mine Clearance Services. It complies with the US Foreign and Corrupt Practices Act, 1997 and the UK's Anti-Terrorism, Crime and Security Act, 2001 and has also been certified to ISO 9001:2000 and to ISO/IEC 27001:2005. For more information please visit www.armorgroup.com.



The paper

The timing of release of the paper coincides with plans advanced by the Ministry of Defence for development of the MoD concept for Contractors Deployed on Operations, referred to as 'CONDO'.

The research

1. ArmorGroup commissioned Continental Research to survey 200 finance directors and financial controllers of companies with a turnover of £1 million or more between 14 August and 18 August 2006.
2. The Foreign and Commonwealth Office publishes a list of 'don't go to' countries which at the time of the survey included India, Nigeria, Pakistan, Kazakhstan, Georgia, Iran, Sri Lanka, Uganda, Israel, Libya, Congo, Algeria, Syria, Central African Republic, Lebanon, Sudan, Colombia, Ethiopia, Ecuador, Afghanistan, Eritrea, Iraq and East Timor.