Rt Hon Jeremy Hunt MP  
Secretary of State for  
Foreign and Commonwealth Affairs  
King Charles Street  
London  
SW1A 2AH  

20 June 2019

Dear Jeremy,

VULNERABLE BRITISH NATIONAL CHILDREN IN REFUGEE AND INTERNALLY DISPLACED PERSONS CAMPS IN SYRIA AND IRAQ

The Committee is concerned about reports that there are British children, including British child orphans in refugee and IDP (Internally Displaced Persons) camps in Iraq and Syria. These children were taken to Iraq or Syria by their parents and these British children are now abandoned in that conflict zone, often in refugee or IDP camps in the area. The conditions there are so poor as to raise numerous human rights concerns for these vulnerable children. The Committee is therefore keen to explore what the Government can do to safeguard these vulnerable children.

We note the FCO's consular assistance policy\(^1\) which would indicate that vulnerable children in a crisis situation at risk of harm would indeed be a priority for the provision of consular assistance by the Foreign and Commonwealth Office\(^2\).

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2. The FCO policy guidance states (at page 3) that “our priority is to provide assistance to those British nationals overseas that need our help the most”, which would surely cover children abandoned in IDP camps in Syria and Iraq. Moreover, the consular crisis policy is also relevant (see page 4 of the FCO Guidance), as this relates to crises as a “result of... civil unrest, terrorism or conflict” (such as the recent conflict in Syria/Iraq). In such circumstances the FCO can assist with transport or evacuation as well as other support depending on the nature of the crisis. Further, in exceptional circumstances, the FCO says it can “enhance the level of support we are able to provide in order to assist those... at risk of harm”. Given that the Family Courts have considered that British children would be likely to “suffer significant harm” in such circumstances [see Re M (Wardship): Jurisdiction and Powers] [2015] EWHC 1433 (Fam)], then one would consider that this test is easily met.
We recognise that the details of the exact assistance to be provided and how (and through whom) assistance might be provided will vary depending on the circumstances of each case. However, we consider there is a strong case that FCO consular policy requires the FCO to undertake best endeavours to assist vulnerable British children finding themselves in refugee or IDP camps in a conflict or unstable situation. We would therefore like to know what the FCO has done and plans to do in future to identify and assist vulnerable British children in refugee and IDP camps in Syria and Iraq?

We would also like to draw your attention to the judgment of the family courts in RE M (Wardship: Jurisdiction and Powers). This judgment sets out the framework that the Family Court considers to be applicable in wardship decisions in respect of children whose parents had removed them from the UK with the intention of joining ISIS/Da’esh in Syria/Iraq. The President of the Family Court considers that “the Crown’s protective duty, as parens patriae, in relation to children extend[s], in the case of a child who [is] a British subject, to protect the child wherever he may be, whether in this country or abroad”. It is also clear that the family court would consider that a child in conflict zone conditions in Iraq or Syria would risk “suffering significant harm” and that the risks to a child in such circumstances was of harm “of the type that would engage Article 2 or 3 ECHR (i.e. right to life and freedom from torture or cruel or degrading treatment or punishment). We would be interested to know how the FCO interprets the “Crown’s protective duty” referenced in that judgment, and how that might best be read with the FCO’s consular assistance policy, which is supposed to prioritise assistance to vulnerable groups, such as children.

Moreover, which body should be responsible for bringing the cases of these British children to the attention of the family courts in cases where there is not a local authority that is readily identifiable to do this?

More generally, we would like to know how the FCO ensures that the best interests of the child are embedded into its decision-making in consular assistance and crisis work involving children?

Given the judgments of the family courts and the FCO consular guidance, we would expect proactive action from the State to protect and assist vulnerable British children overseas. We expect that the FCO should be using its best endeavours to proactively identify such British national children abandoned in IDP camps or elsewhere in Syria/Iraq and to work with other authorities (authorities within the UK, international organisations, NGOs and with other States) to identify those British children and to provide them with consular crisis assistance to protect those children.

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3 The FCO policy guidance states (at page 4) that the exact assistance the FCO could provide would depend on “local factors such as security... relations with the local authorities, as well as... how vulnerable you are”. Moreover, the FCO might need to work with other Government authorities to deliver certain services (e.g. HMPO for passports; local authorities and the NHS for follow-up care, health and welfare services; HO for security issues). In particular, where the FCO isn’t represented in a country, there are arrangements whereby other countries would assist UK nationals (arrangements with EU Member States under EU law, and similar arrangements with Commonwealth countries). Finally, the FCO could work through international organisation and agencies operating on the ground (e.g. IOM and UNHRC) to identify and assist British national children in those camps.

4 See [2016] 1 FLR p. 1055, paragraph (2); and p. 1072, paragraph 32.
and safeguard their welfare – including repatriating them to the UK where appropriate. These are, after all, vulnerable British children, who find themselves orphaned, abandoned and living in horrible circumstances, through no fault of their own.

We do recognise that in applying such a policy there could be some complex cases and issues that would need to be worked through, including practical issues over undocumented children; practical issues concerning repatriation and after-care; logistics in working through other countries’ embassies or international organisations (e.g. in areas where there are no UK consular staff); how assistance is provided to vulnerable British children in these conditions who are not orphans; special considerations such as care and counselling required for children who have witnessed (or even been coerced into participating in) traumatic experiences. However, the best interests of the child should obviously be a guiding principle in dealing with all of these issues.

I have copied this letter to the Home Secretary and the Education Secretary.

Yours sincerely

Rt Hon Harriet Harman MP
Chair of the Joint Committee on Human Rights