

## Sexual assault abroad

A report by the Parliamentary Ombudsman  
on an investigation into a complaint about the  
Foreign and Commonwealth Office



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## Summary

In May 2011 a British woman (Ms M), who was travelling in Egypt, was the victim of a sexual assault by a military official. She contacted the British Embassy in Cairo for consular assistance, but embassy staff gave her little support at a time when she was frightened and vulnerable.

Ms M complained that embassy staff:

- did not explain clearly how they could help her;
- did not accompany her to report the crime to the police;
- did not arrange a medical examination immediately or offer to accompany her to a hospital; and
- did not know about post-exposure prophylaxis - a treatment that can prevent HIV infection once the virus has entered the body.

On her return to the UK Ms M complained to the Foreign and Commonwealth Office (FCO), but their initial response was to defend the actions of the Embassy in Cairo. The FCO implied that it was Ms M's failure to follow their advice, along with the external circumstances in Egypt at the time, that had been at issue. But they did acknowledge that *'with perfect hindsight they might have handled her case better'*.

We found failings in the way both the British Embassy in Cairo and the FCO in London handled the case. Instead of giving Ms M the help and advice she needed, the Embassy made a series of assumptions about her ability to cope and was not sensitive to her needs. In particular, they failed to recognise the context in which the assault took place, namely that the assailant was a military official.

The FCO have changed their approach to helping British nationals who are the victims of sexual assault abroad. As a result of the Ombudsman's investigation the FCO have reviewed the way they handle complaints, putting the needs and feelings of the complainant at the centre of the process. The new culture will focus on encouraging staff to approach complaints as an opportunity for the FCO to improve the service they provide.

The FCO have written to Ms M to apologise for the injustice she suffered and have paid her £1,000 in compensation.

## The complaint

1. Ms M complained about the service she received from the Foreign and Commonwealth Office (FCO) when she sought assistance after she had been raped in Egypt in May 2011. She said that the service provided at the time and over the following three days was far below what she was entitled to expect. In particular, Ms M complained that the FCO did not:
  - offer to accompany her to report the crime;
  - explain clearly how they could help her;
  - help to arrange a medical examination immediately;
  - help her to identify a lawyer who could best deal with her case; and
  - have knowledge of post-exposure prophylaxis.<sup>1</sup>

Ms M also complained about the FCO's handling of her complaint about this and their handling of her request for information. She said that as a result she had suffered: unnecessary trauma, distress and financial loss. She wanted an apology, financial redress and information regarding FCO's commitments to reviewing guidance and improving training for consular staff in dealing with cases of rape, sexual assault and torture.

## The decision

2. We uphold Ms M's complaint.

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<sup>1</sup> Post-exposure prophylaxis is a treatment that may prevent HIV infection once the virus has entered the body. It involves taking anti-HIV drugs for four weeks and must be started as soon as possible after exposure to the virus, or at the very most within 72 hours.

## The Ombudsman's role

3. An explanation of the Ombudsman's jurisdiction and role is in Annex A of this report. In essence, the Ombudsman's approach when deciding complaints is to compare what should have happened with what did happen, and to decide if what happened was so poor as to amount to maladministration. In order to do this, we use an overall standard. This is a combination of a general and a specific standard. More information about the general standard is in Annex B of this report. We set out what should have happened in Ms M's complaint in paragraphs 4 to 21 of this report. We describe what happened in paragraphs 23 to 97. Our findings of maladministration and injustice are in paragraphs 112 to 138 and our remedies are in paragraphs 139 to 142. In reaching a decision about Ms M's complaint, we have also used the Ombudsman's Principles. More information about these, and the Principles most relevant to Ms M's complaint, is set out in Annex B.

### What should have happened?

#### The specific standard – legal and administrative background

##### *The Foreign and Commonwealth Office*

4. The Foreign and Commonwealth Office (the FCO) are responsible for supporting British nationals around the world '*through modern and efficient consular services*'. The FCO have a worldwide network of embassies and consulates.<sup>2</sup> Both embassies

and consulates provide consular assistance (help and advice) to British nationals overseas. The FCO say that their staff work 24 hours a day, all year round to '*provide high quality help to the British public around the world*'.

5. The role of consular staff is defined by the *Vienna Convention on Consular Relations 1963* (the Convention). Article 5 of the Convention sets out the functions of a consulate. These include '*helping and assisting nationals ... of the sending State*' and '*performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State*'. If a sending state wishes to carry out a consular function outside the scope of Article 5, they would need the consent of the receiving state. Article 36 of the Convention says that consular officials should be free to communicate with their nationals and have access to them. If a national of the sending state is arrested or detained in any other manner, the receiving state should inform the consulate of the sending state. The consulate have the right to visit the national being detained, and to speak or write to them and arrange for legal representation.

##### *The Embassy in Cairo*

6. In 2011 the FCO had eight consular staff in Egypt; seven of these were based in the Embassy in Cairo<sup>3</sup> and the eighth was in Sharm el Sheikh. There was also some consular resource in Alexandria.

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<sup>2</sup> Where the FCO have an office in the capital city of another country, this is known as an embassy. (In the capitals of Commonwealth countries, the office is called a high commission.) Consulates are generally based in different localities within a country.

<sup>3</sup> For ease of reference throughout this report, we will refer to the consular team who provided assistance to British nationals in Egypt as 'the Embassy'.

## *Global Response Centre*

7. The Global Response Centre was launched on 1 April 2009. They handle all urgent consular cases out of hours. They manage 'emerging crises', providing advice and making sure that consular staff are aware of what has happened. The Global Response Centre monitor world events and they say that they constantly monitor news. The FCO told us that Global Response Centre staff receive some of the same training as consular staff working overseas. If the Global Response Centre have to deal with an urgent issue, such as an arrest, serious illness, rape or death, they will escalate it to the relevant embassy. In 2011 the system for escalating such cases was known as the 'cold call system'. The Global Response Centre would work down a list of consular staff, telephoning each of them in turn until they got a response. The names on the list were rotated to avoid the same person always getting telephoned first.

## **The FCO's guidance**

### *External guidance – Support for British nationals abroad: A guide*

8. The FCO produce guidance for British nationals overseas, setting out the kinds of consular assistance they provide. The guidance says that the FCO cannot give British nationals legal advice or investigate crimes; they can give British nationals details of people who may be able to help with these issues, such as English-speaking lawyers. The FCO say that only the British national can decide whether to report a crime to the police or take legal action; the FCO cannot make that decision for them. The guidance also says the FCO cannot get British nationals better treatment in hospital than is given to local people. The guidance says the FCO can provide 'appropriate help' if a British national has suffered rape or serious assault. The FCO set out their values in the guidance. They say that when they offer support, they will be polite, helpful and professional. They will also explain clearly from the start what help they can give and when a British national may need to get help from others. The FCO also say they will learn lessons if things go wrong and deal with complaints 'fully and fairly'.
9. In their guidance, the FCO say that local factors such as security, the law, transport, medical facilities and relations with local authorities, as well as the circumstances of each individual case and the resources available, may all affect the help they can provide.

### *External guidance – rape and sexual assault overseas*

10. The FCO's guidance for British nationals who have been raped or sexually assaulted abroad says that the FCO will be as helpful as they can. The guidance says that the FCO can provide information about what professional help is available locally and in the UK for the victim and their family. The FCO also say they will offer the person 'appropriate consular assistance'. They say they will be polite, patient, sensitive and non-judgmental. The FCO say that the person should consider reporting the crime to the local police. They say that if the British national decides to report the crime to the police, they should take a friend or relative with them. They also say that if the British national wants, the FCO may be able to go with them. The FCO say they cannot give legal advice but they can tell the person about local police and legal procedures. The FCO say that they can provide details of local lawyers and interpreters but cannot make the decision about whether or not the person takes legal action. The FCO will help the person

deal with the local authorities in arranging a medical examination. Depending on the local conditions and laws, the FCO can arrange for the person to see a doctor for advice on sexually transmitted infections, including HIV/AIDS, pregnancy, abortion or emergency contraception. The FCO say they can provide a list of local hospitals and English-speaking doctors.

11. The FCO's guidance says that if the case goes to trial abroad at a later date, they may be able to assist in certain ways, for example by keeping the person up to date with any developments in the case. They say that sometimes this can be difficult because in some countries, consular officers are not recognised as interested parties, and so judicial authorities will refuse to give them information. In these circumstances, the FCO advise the person to consider appointing a local lawyer who can look after his or her interests in court and follow any trial. The FCO say they cannot investigate the crime, provide legal advice themselves, or pay for the person's lawyers.

### *Internal guidance on rape and sexual assault*

12. The FCO have internal guidance for consular staff on how to deal with cases of rape and sexual assault. This lists key points for staff, which include: seeing the person as soon as possible; recognising the importance of consular staff's reaction to the person and how their handling of the situation can affect a person's recovery; informing next of kin; providing information on local practice regarding rape and serious sexual assault; offering to assist the person to the police and doctor; offering to facilitate contact with the UK police and any UK-based support groups; and reminding staff that victims of rape

and sexual assault are likely to suffer from shock, which may mean the person appears '*completely calm and unemotional or may shake, twitch or even laugh hysterically*'.

13. If the person wants to tell the police, the guidance tells consular staff to '*offer to accompany them to the police station*'. The guidance says consular staff should not try to persuade the person to report the attack to the police if they do not want to. If the person does want to report the assault, consular staff should try to make sure they can have an interview with a female police officer. The guidance also says '*with the victim's consent, arrange a medical examination immediately, with the local police doctor if appropriate*'.
14. Consular staff should try to arrange the medical examination with a female doctor. The FCO provide a list of doctors for British nationals. They said they tried to ensure that all practitioners on the list were registered to practice and suitably qualified. However, they were unable to take responsibility for the competence or probity of the doctors on the list. The FCO told us this is the same list of doctors they give to Embassy staff to use, should they need medical treatment. The FCO told us that where they received negative feedback from British nationals about hospitals on their list, they would consider removing them from the list.
15. Consular staff should encourage the person to seek immediate professional help and consider treatment for mental and physical trauma. If appropriate, they should advise the person about the existence of HIV post-exposure treatment (HIV post-exposure prophylaxis) and the morning-after pill; consular staff should investigate what the local availability of this treatment is. Consular staff should try to give the person information on what

support is available both locally and in the UK. They should also find out if there is someone locally who can help and provide follow-up care, for example a phone call, visit from a sexual offences trained officer, or contact from the Consular Directorate.

16. The guidance provides information for FCO staff on the effects of rape and sexual assault. It says:

*'In the immediate aftermath of an attack, victims may display any of the following: shock, fear/terror, anger (this could even be directed at you), rage, confusion, vulnerability/disempowerment, blame/guilt, disbelief/denial, and detachment. Detachment or expressions of denial do not mean that the person is lying. Such feelings are both normal and usual.'*

The guidance tells consular staff to recognise their own attitudes towards rape and not allow these attitudes to influence their professionalism when dealing with a victim of rape or sexual assault.

17. The FCO provide separate guidance for staff about lists of local lawyers. This says that consular staff should not direct British nationals towards any particular lawyer, or make a recommendation; they must maintain impartiality. The Embassy should make sure that the list has suitable lawyers to cover the areas of expertise most relevant to consular work, for example, there should be lawyers on the list who cover criminal or family law. The list should show clearly which areas are covered by which lawyers. The local lawyers list must include a disclaimer. The FCO give the following example:

*'Neither the Government nor the relevant British Embassy, High Commission or Consulate can make*

*any guarantee in relation to the professional ability or character of any person or company on the list, nor can they be held responsible in any way for you relying on any advice you are given.'*

### *Internal guidance – allegations of torture and mistreatment*

18. In March 2011 the FCO published internal guidance for staff on reporting allegations of torture and mistreatment (or cruel, inhuman and degrading treatment). The guidance defines torture as including the intentional infliction of severe mental or physical pain or suffering by a public official, in the performance or purported performance of his duties. The guidance says there is no exhaustive definition of what cruel, inhuman and degrading treatment is, but the FCO consider it to include physical abuse or punishment of any sort or degrading treatment, including sexual harassment or religious taunts. The guidance says that where consular staff are aware of any allegation or are concerned about incidents of possible torture or cruel, inhuman or degrading treatment, they should follow consular guidance about reporting this. The consular guidance says that staff should report their concerns to the FCO in London and the head of mission (based at the Embassy). This should be done within 24 hours of receiving the allegation. The consular guidance says the FCO will ensure that all allegations of torture or cruel, inhuman and degrading treatment are reported to the relevant government minister. The consular guidance says the main action the FCO can take in dealing with such allegations is to bring the case to the attention of the relevant authority, with the individual's consent, demanding an end to the torture or mistreatment. They can

also ask that *'the case is investigated and the perpetrators brought to justice. Only the local or national authorities are in a position to take this action: it is not the role of consular officials to investigate allegations'*.

### *The FCO's travel advice for Egypt in May 2011*

19. The FCO provide travel advice for British nationals. Their advice for Egypt on 12 May 2011 described major political protests and large demonstrations that had taken place in Cairo and other locations in the previous months. The advice said there was a nationwide curfew in place between 2am and 5am local time.<sup>4</sup> The FCO said the border crossing at Rafah between Egypt and Gaza was open daily between 10am and 4pm (local time) for special cases only. The FCO advised those wanting to cross the border to Gaza to contact the Egyptian embassy in London for advice. The FCO said that they received a significant number of reports of cases of sexual assaults against British nationals in Egypt. In 2010 they handled 25 cases of sexual assault and three of rape. The FCO said some of these assaults were against minors. They said reports of sexual assaults had increased during the recent political unrest.

### *Data Protection Act 1998 requests*

20. The *Data Protection Act 1998* gives people the right to view data that an organisation holds about them. The FCO's guidance for staff on handling data protection requests says that the request must be made in writing. It also says that the person making the request must provide proof

of their identity *'unless there is no doubt that the request is genuine'*. A request for information can also be made by a family member, but the FCO tell staff to ensure that the request is being made with the consent of the individual concerned. The statutory period for responding to a data protection request is 40 calendar days. The FCO say this starts from the day they receive proof of identification from the person making the request.

### *The FCO's complaint handling process*

21. The FCO have a three-stage complaints process. The first stage is to the embassy or consulate. The target date for a response is 20 days. If the complainant is not happy with the response they receive at this stage, they can write to the director of consular services at the FCO in London. The target date for a response is 20 days. The FCO say that the director sees all complaints and will ask for an investigation to be carried out by a member of staff not directly involved in the complaint. If the complainant is still not satisfied, they can write to a Foreign Office minister, or complain to us.

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<sup>4</sup> The FCO said that Embassy staff were told not to travel during the curfew and it was strictly enforced by the authorities.

## The investigation

22. In the course of our investigation, we have made enquiries of the FCO and interviewed representatives from the FCO in London and the Embassy in Cairo. We have also considered the papers the FCO have given us. We have also spoken to Ms M and considered the information she has given us. Whilst we have not included all of the information we have seen during our investigation in this report, we are satisfied that nothing of significance to the complaint or our findings has been left out.

## Background

23. In May 2011 Ms M travelled to Egypt to stay with friends in Cairo for two weeks. This was approximately three months after the revolution in Egypt that had led to the resignation of the Egyptian president. On 14 May 2011 Ms M decided to travel to the Rafah border crossing between Egypt and the Gaza Strip. The coach she was travelling on was stopped at a temporary military checkpoint in Sinai. Ms M decided to try to travel on to El-Arish in Sinai, Egypt, where some of her friends were staying. She took a shared taxi and was stopped again at the last checkpoint before El-Arish. Ms M said she was told to get out of the shared taxi and a military officer took her passport. Ms M said she was told by a man in plain clothes who she believed to be a military officer that he would let her continue her journey to El-Arish but not until the morning. The plain clothes military officer took Ms M to a place where he said she could sleep. Ms M was then raped by the military officer. Ms M said she was then made to

wait because she needed her passport back. Ms M said that she was frightened that if any of the other military officers at the checkpoint realised she had been raped, they might not have let her go because they would be worried she would report it. Ms M left the checkpoint and made her way to Port Said, where some of her friends were. Once with her friends, they telephoned the FCO to tell them what had happened.

## Key events – what happened?

15 May 2011

3.24pm<sup>5</sup> – telephone call from Friend A to the Global Response Centre (taken from the FCO's transcripts)

24. One of Ms M's friends (Friend A) telephoned the FCO. The British Embassy in Cairo (the Embassy) was closed when Friend A made the call, so she was redirected to the Global Response Centre in London (paragraph 7). Friend A told the Global Response Centre that Ms M had been sexually assaulted by a member of the Egyptian army in Sinai the night before. Friend A said that she was travelling back to Cairo with Ms M to '*deal with everything*' and said that Ms M was planning to get to a doctor as soon as possible. Friend A asked the Global Response Centre if they could recommend hospitals Ms M could go to. The Global Response Centre said they would email a list but thought that hospitals in Cairo might be closed at that time. Friend A asked what Ms M should do now. The Global Response Centre said they would call Friend A back and talk through the procedure. It is not clear what procedure the Global Response Centre were referring to here.

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<sup>5</sup> All times in this report are shown in Egyptian time. This is one hour ahead of British summertime.

### 3.49pm – email from the Global Response Centre to Friend A

25. The Global Response Centre emailed Friend A a list of hospitals. In their email, the Global Response Centre said that all the listed hospitals were considered to have adequate facilities available.

### 4.02pm – telephone call from the Global Response Centre to Friend A (taken from the FCO's transcripts)

26. The Global Response Centre telephoned Friend A back. The person from the Global Response Centre said she was calling because she had more knowledge about the procedures in Egypt. She said she understood Ms M wanted to go to hospital to be examined and asked if Ms M had been in contact with any police officers yet. Friend A said they did not want to report the crime to anyone until Ms M had been medically assessed and they had spoken to the FCO. The Global Response Centre said it would be a good idea for Ms M to get in touch with the police as they were not sure a hospital would examine Ms M without instructions from the police. The Global Response Centre said they had not dealt with the police in Egypt before but told Friend A she was going to have to contact them if Ms M wanted to be examined at a hospital. Friend A said she had dealt with the police in Egypt before and they were '*rubbish*'. She said they were not a credible or sensible organisation and were controlled by the army. The Global Response Centre said that if Ms M wanted to press charges, she would have to go to the police at some point. Friend A asked if the advice she had just been given by the Global Response

Centre was general advice. The Global Response Centre said it was, and that it was entirely up to Ms M what she decided to do. Friend A asked if she could speak to the Embassy directly. The Global Response Centre said the Embassy would give her the same advice, which was that if Ms M wanted to, she should report the crime to the police. Friend A said that '*the situation isn't normal here, so it's like the procedure has to be different, because when the police and army are corrupt, and you've been raped by the army, you're not going to go and report it to the army, are you?*' The Global Response Centre asked Friend A what she was hoping the Embassy would do. Friend A said she did not know what to expect but she did not have any answers herself and that was why she had contacted the FCO. Friend A said she had called the Embassy because it was an emergency. Ms M then spoke to the Global Response Centre and repeated Friend A's concerns about the role of the army and the police. Ms M said the reason she had called the Embassy was because she wanted them to advise her what to do. The Global Response Centre said they would try and get someone from the Embassy to call Ms M.

27. The FCO told us that their guidance and the Embassy's overall approach to consular issues remained the same in Egypt, despite the unusual set of circumstances at the time of the events complained about. They said that the way they approached local authorities there remained the same; they still had the same contacts and processes to follow. The only thing that had changed was their travel advice (paragraph 19).

4.19pm – telephone call from the Global Response Centre to the Embassy (taken from the FCO’s transcripts)

28. The Global Response Centre telephoned the Embassy. The Global Response Centre explained what had happened and said that Ms M was very distressed. They asked someone from the Embassy to telephone Ms M and give her some advice because Ms M was keen to speak to someone on the ground in Egypt. The Global Response Centre explained that Ms M wanted to go to hospital to be examined and that she did not want to report the assault to the police.

Pm (exact time not recorded) – telephone call from the Embassy to Friend A (taken from a case note made the following day, on 16 May 2011)

29. The Embassy said they had spoken to Friend A about what had happened to Ms M. They had then spoken to Ms M who sounded ‘*calm and in control*’. The Embassy said they had asked Ms M if she could tell them what had happened but Ms M had not wanted to go into this over the telephone. The Embassy said Ms M and Friend A were on their way to a private hospital to get a medical check-up. They suggested that Ms M should come to the Embassy the following morning since she had not yet decided whether to report the assault to the police. The Embassy said they told Ms M that if she was planning to report the assault to the police, she should not take a shower and she should keep her clothes as evidence; they said they also reminded Ms M about the morning-after pill. Ms M told the Embassy that she was aware of the morning-after pill and that she had already taken a shower.

30. Ms M went to a private hospital she found on the list the Global Response Centre had emailed her. She later told the FCO that she had seen a female doctor when she arrived at the hospital, who told her she did not need an HIV test as there was no HIV in Egypt. Ms M said the doctor refused to take a swab and then called Ms M’s male friend (Friend B) into the room whilst she was still on the couch in foot stirrups. Ms M said this was very upsetting.

Pm (exact time not recorded) – telephone call from Friend A to the Embassy (taken from case note made by the Embassy on 16 May 2011)

31. The Embassy said Friend A called them back and asked if Ms M needed to get a medical check at a government hospital in order for any evidence gathered to be considered valid by the authorities. It is not clear whether this telephone call took place before or after Ms M had visited the private hospital. The Embassy said they telephoned Friend A back to tell her that the police would refer Ms M to a government hospital once she had reported the assault.
32. Ms M said she had asked the Embassy for information about how she could get forensic tests done but they did not know. Instead, she said she had spoken to a friend and discovered that only government hospitals could take forensic evidence, and she would need to report the crime to the police in order to get referred to one. Ms M told us she had not wanted to report the crime to the police until she found out that she would need to in order to get any forensic evidence taken.

Pm (exact time not recorded) – telephone call from Friend A to the Embassy (taken from case note made on 16 May 2011)

33. The Embassy said that Friend A had called them again to ask if they could write a letter of referral to the police station. It is not clear what Friend A meant by this. The Embassy said they had explained this was not something they could do. The Embassy said they told Friend A that they could speak to someone from the tourist police (about the crime) when Ms M came to the Embassy the following morning.
34. At some time during the afternoon on 15 May 2011 Ms M went to the police to report the assault. In her subsequent complaint to the FCO, Ms M told them that when she had gone to the tourist police to report the assault, there were several non-uniform police officers in the room, and that nobody had written anything down. She said she had found the process very upsetting. Ms M said she became very scared and telephoned her father, Dr M, in the UK. Ms M said that after a couple of hours, she was told she would need to go to the military court, at the military headquarters.

11.30pm (approx) – telephone call from Friend A to the Embassy (taken from case note made by the Embassy on 16 May 2011)

35. The Embassy said Friend A telephoned to tell them that she and Ms M were at the tourist police headquarters and that Ms M would be giving a statement at the military prosecution. She said they were starting to panic as there were lots of officers in the room and Ms M was feeling intimidated. She said that Ms M wanted to leave but they were being prevented

from leaving. The Embassy asked to speak to Ms M's Egyptian friend, who told them that Ms M had first been seen by the tourist police and they had called in a state security officer and the final step was for her now to make a statement in front of the prosecutor. He said they seemed very interested in her case and were treating her well. He did not believe there was any reason to panic. He asked officers while the Embassy were on the phone whether Ms M was allowed to leave at any time and the officers said yes but they would rather she completed the procedure, otherwise she had no case. The Embassy said they spoke to Ms M who '*decided she wanted to leave in the middle of the investigation*' so they told her what her Egyptian friend had said and that it was only one step to go, which was the statement and medical check-up. Ms M said this was fine and hung up.

36. Ms M later told the FCO that she had not wanted to go into the military headquarters but had felt she had no choice. After being promised that she could leave if she wanted to, Ms M said she had agreed to go in. Ms M said she had then been made to wait for about two hours. By this time she was extremely upset and kept asking to leave. She said she had also asked for a lawyer, at which point the military personnel present started asking her if she was making the allegation up, asking her why she had changed her mind about making a statement and telling her that she did not need a lawyer as she was not the accused. Ms M said she stood up to leave at this point but the gate was blocked by army personnel with guns. Ms M said she was told she would not be allowed to leave without first going to meet the man she had been waiting for (it is not clear who this man was), who would give her the authority to leave. Ms M said

she had demanded several more times that she wanted to leave but was not allowed to, and at around midnight she had gone into the main building at the military headquarters.

Monday 16 May 2011

12.52am – telephone call from Dr M to the Global Response Centre (taken from the FCO's transcripts)

37. Ms M's father telephoned the Global Response Centre. He said he thought Ms M ought to have a consular official with her. He said that she was in some danger of ending up spending a very long time in military custody while being questioned inadequately and he thought she desperately needed to see a doctor. He also said she needed to be given antiretrovirals just in case she had been infected with HIV AIDS. The Global Response Centre told Dr M they would see if they could get hold of a duty officer in Egypt and see if they could visit.

12.53am – telephone call from the Political Section at the Embassy to the Global Response Centre (taken from the FCO's transcripts)

38. The Political Section told the Global Response Centre they had just received information that Ms M was being held in the military headquarters in Cairo. The Political Section told the Global Response Centre that they should contact the deputy head of mission and tell him about this.

1.11am – telephone call from the Global Response Centre to Dr M (taken from the FCO's transcripts)

39. The Global Response Centre told Dr M that the case had been escalated and they had spoken to the Embassy and they were in touch with the deputy head of mission in Egypt and were attempting to make contact with Ms M. The Global Response Centre said *'it's been made very very clear that this needs to be given urgent attention and everybody is taking it very seriously'*.

1.31am – telephone call from the deputy head of mission at the Embassy to the Global Response Centre (taken from the FCO's transcripts)

40. The Global Response Centre apologised to the deputy head of mission for having to wake him up in the middle of the night. They said they had referred Ms M's case to the Embassy the previous afternoon and thought the case had been dealt with. However, they had been told 45 minutes earlier that Ms M was being held at the military headquarters. The deputy head of mission said that he would telephone Ms M and let her know that the Embassy were aware of what was happening. He said that he would tell Ms M that *'first thing in the morning, we won't get anyone now, we will find some lawyers, or a lawyer who will be able to come and help you'*. He said the priority was to make contact with Ms M. The deputy head of mission said the key thing was to make contact with Ms M from the Embassy so that *'people who are listening on the phones know that we are aware of this'*. The deputy head of mission said he would deal with the case until later that morning when he could pass it over to consular staff at the Embassy.

2.03am – telephone call from the deputy head of mission at the Embassy to the Global Response Centre (taken from the FCO's transcripts)

41. The deputy head of mission said he had spoken to Ms M. She had told him the military were not being very helpful at that time of the morning, and he said he could understand this. The deputy head of mission said Ms M wanted to leave the military headquarters and he had advised her to do so. He said he had suggested to Ms M that she check into a hotel for the night and he would send a consular official around in the morning. Ms M told the deputy head of mission that she would be staying at her friend's house, and he had said this was fine but he would need to know where this was so the consular official knew where to go in the morning. The deputy head of mission told the Global Response Centre they might want to telephone Dr M and let him know that he had spoken to Ms M, who was calm but upset.

2.24am – text message from the deputy head of mission to Friend A

42. *'How are you getting on? You are in Nasser City, closest recommended hospital is ...'*<sup>6</sup>

2.33am – text message from Friend A to the deputy head of mission

43. *'we are stuck here trying to get out.'*

2.34am – text message from the deputy head of mission to Friend A

44. *'Ok, if you need me to speak to someone let me know.'*

2.41am – telephone call from the deputy head of mission to the Global Response Centre (taken from the FCO's transcripts)

45. The deputy head of mission told the Global Response Centre that Ms M was now out of the military facility and would let him know the address of the friend's house where she was staying and the Embassy *'will send them a consular official in the morning'*. At the same time the Global Response Centre were also speaking to Dr M. They said that Ms M had left the military headquarters and was on her way to a friend's house.

2.57am – text message from Friend A to the deputy head of mission

46. *'Ok coming out.'*
47. When Ms M complained to the FCO at a later date, she told them that she had only been allowed to leave the military headquarters because she had promised to come back at 9am the following morning to give her statement, and because she had told them that she wanted to find antiretrovirals.

3am – telephone call from the Global Response Centre to Ms M (taken from the FCO's transcripts)

48. Friend A spoke to the Global Response Centre and confirmed that they had now come out of the military headquarters and were walking outside. Ms M told the Global Response Centre that she was going to try to find a hospital and get antiretroviral drugs. She would then have to go back to the military headquarters, meaning that she would not have slept for two nights. The Global Response Centre

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<sup>6</sup> Ms M had still not had a full medical examination at this time.

asked Ms M to keep in touch with the Embassy and let them know how she got on in the morning (when she went back to the military headquarters). Ms M said that at 8.30am that morning someone from the Embassy was going with her to the military headquarters.

### 3.35am – text message from the deputy head of mission to Friend A

49. The deputy head of mission told Friend A that he needed an address where he could contact Ms M.

### 3.39am – text message from the deputy head of mission to Friend A

50. The deputy head of mission told Friend A that someone from the consular team at the Embassy would be *'in touch'* with Ms M at 9am that morning.

### 3.43am – text message from Friend A to the deputy head of mission

51. *'We are trying to get anti-virals right now do you know anyone to get them.'*

### 3.53am – text message from the deputy head of mission to Friend A

52. *'To be honest no. Most hospitals will provide them I imagine. I texted you the details of the hospitals earlier. Some other hospitals in the area.'*

### Am (exact time not recorded) – telephone call between the Embassy and Friend A (from case note made by the Embassy)

53. The Embassy said they had telephoned Friend A that morning. Friend A told the Embassy that the deputy head of mission had told Ms M that an Embassy car would come and take her to the military headquarters that morning and bring a

lawyer. The Embassy said they then spoke to the deputy head of mission who had corrected this information. He said he had actually told them someone from the Embassy would visit them with a list of lawyers. The Embassy said they spoke to Ms M to explain this misunderstanding. Ms M asked the Embassy if someone could come to where she was staying and then take her to the military headquarters. The Embassy told Ms M they would meet her, but not at the place she was staying, and they could go to the military headquarters with her. Ms M then told the Embassy she wanted to go to a private hospital to have a check-up. The Embassy said they would give Ms M some time to decide what she wanted to do and then call her back.

54. The FCO told us that the deputy head of mission would not have had detailed knowledge of the Embassy's consular guidance and processes (the Embassy told us their policy is not to send staff to home addresses). They also told us that they were sure the deputy head of mission would not have offered to arrange a lawyer for Ms M. They said the Embassy had not been able to check what the deputy head of mission had said to Ms M when he spoke to her until he got into the office later that morning. They told us he had not been aware of a plan that had been put in place to meet Ms M that day at her apartment.

### Pm (exact time not recorded) – telephone call between the Embassy and Ms M and Friend A (from case note made by the Embassy)

55. The Embassy telephoned Friend A who said they were on their way to see a gynaecologist. The Embassy said they asked if Ms M would be going to the military headquarters later. Friend A said she was not sure as Ms M was worried she

would not be allowed to leave the country. Ms M then spoke to the Embassy and said she was scheduled to leave for the UK the following day to attend her sister's wedding. The Embassy said it was up to Ms M if she wanted to make a statement to the military and that no one could stop her from leaving the country afterwards. The Embassy said they explained that Ms M's case could be weakened if she was needed for anything to do with it whilst she was out of the country. Ms M said she wanted to make a statement but did not want to go to the military headquarters. The Embassy said this was where it needed to be taken. Ms M said that she also wanted to report the whole incident to the Embassy. They had been expecting Ms M to come to the Embassy that morning and said that they had also offered to visit her. The Embassy told Ms M she was still welcome to come in and have a chat and Ms M said she would do that.

### 3.30pm – Embassy's case note of Ms M's visit to the Embassy

56. The Embassy said Ms M and Friend A had arrived to see them that afternoon after Ms M's doctor's appointment. The Embassy noted some of the details of the night Ms M was raped. They said Ms M definitely wanted to make a statement but was too scared to go back to the military headquarters. She said she had appointed a lawyer. The Embassy said they asked Ms M if she would like to go to the military headquarters the following morning because she would be leaving for the UK at 5pm the following evening. The Embassy said they would be able to meet Ms M in front of the military headquarters at 9.30am. They said they would need to make an appointment at military headquarters before they went because if they turned up without an appointment, Ms M could be left waiting for hours. The Embassy said it was also possible that the military would have dropped the case as Ms M had not turned up that morning as she had arranged to do (paragraph 47). Ms M said officers had taken all the details of her case the previous evening and were making calls to El-Arish. She said they seemed determined to identify the perpetrator. Ms M said she had not signed a statement or seen a prosecutor when she was there. The Embassy said they would call Ms M later that day to make sure she was definitely going to go to the military headquarters the following day. The Embassy also gave Ms M a list of English-speaking lawyers before she went. This showed a number of lawyers working in Cairo and listed their contact details as well as their activities. This list included lawyers who practised criminal law.
57. In her complaint to the FCO, Ms M told them that she had been asked by the Embassy to give them an account of what had happened to her. Ms M said she had asked the Embassy what they were going to do with the information they had written down as she spoke to them and whether she could have a copy of it. She said the Embassy told her she could not. Ms M said it was traumatic to recount the events and that nobody at the Embassy had told her why she had to do this. Ms M also told the FCO that if someone from the Embassy had come with her when she reported the assault, she would not have had to go over it all again with them later.
58. The FCO told us that consular staff at the Embassy had not forced Ms M to tell her story and they thought this was what she had wanted to do. They said it was clear from the record they had made at the time of Ms M's visit that she had wanted to tell them what happened.

59. In her complaint, Ms M also said she left the Embassy having agreed that she would try to arrange an appointment at the military headquarters again. She said this was despite the fact she did not want to go back there because she had already been held there against her will. Ms M said that under advice from a lawyer, she had then gone to a military hospital to try and be seen, and have evidence taken. Whilst she had been waiting there, Friend B had telephoned her and asked her to come to his apartment to meet a detective from the military who would take her statement. Ms M said she agreed to do this as her lawyer had not been allowed into the military hospital with her and she did not hold out much hope of being seen by a female doctor there.

7pm (approx – exact time not recorded)  
– telephone call from the Embassy to Ms M

60. The Embassy asked Ms M if she had been able to make an appointment at the military headquarters. Ms M said she could not get hold of any of the officers and her Egyptian friend (who was going to help her) was not answering his phone.

8.28pm – text message from the Embassy to Friend A

61. The Embassy asked Friend A whether Ms M had been able to arrange an appointment at the military headquarters.

8.30pm – text message from Friend A to the Embassy

62. *'No she wasn't.'*

Pm (exact time not recorded) telephone call from Ms M's friend in the UK (Friend C) to the Embassy (from case note made by the Embassy)

63. Friend C told the Embassy she wanted to complain about the lack of assistance they had given Ms M. Friend C said Ms M had told her the only person helping her was an Egyptian friend and that the Embassy were doing nothing to support her. Friend C told the Embassy it was unacceptable that they had not even met Ms M face to face. The Embassy said they reassured Friend C that they were providing the necessary consular assistance, which included meeting Ms M. Friend C also told the Embassy it was unacceptable that they had not advised Ms M to go to a military hospital instead of a regular hospital. Friend C said Ms M was disappointed with the lack of support she had been given by the Embassy. The Embassy said they told Friend C that if Ms M had any concerns about the service they had provided, she could write a letter of complaint and any allegations would be investigated.

10pm (exact time not recorded)  
telephone call from the Embassy to Ms M (from case note made by the Embassy)

64. Ms M told the Embassy that she would be making a written statement without having to go inside the military headquarters. The Embassy said they asked if Ms M had checked with her lawyer whether this was acceptable, and she had said he was out of town, but her Egyptian friend had checked with officers and they had told him it was fine. The Embassy said they told Ms M to contact them if she needed any assistance. They would also call her the following morning.

17 May 2011

Am (exact time not recorded) –  
telephone call from the Embassy to  
Ms M (taken from case note made by  
the Embassy)

65. Ms M told the Embassy she had made a statement in front of an officer at her friend's apartment. It had taken eight hours. The Embassy asked if Ms M had been able to consult her lawyer but she said she did not have one at the moment. The Embassy recommended that Ms M looked at the list they had given her the day before. Ms M said the officer had urged her to stay in Egypt as they needed her to identify her assailant. She said he had not mentioned referring her for a medical examination. The Embassy asked Ms M to call them back if she required any more assistance and to provide them with a UK contact number in case they needed to reach her.
66. Ms M told us that the officer had asked her to re-enact what had happened when she had been assaulted in El-Arish, including demonstrating the positions she had been forced into by the military officer. She said he had also 'tested' whether it was possible for him to pull down her jeans without undoing the fly. Ms M told us this had been traumatising.

19 May 2011

12.42pm – telephone call from the  
Embassy to Friend A (taken from case  
note made by the Embassy)

67. Friend A said that Ms M was now back in the UK. She said the officers at the military headquarters had told Ms M they would call the Embassy so that the Embassy could facilitate Ms M's trip back to Egypt

by paying for her ticket. The Embassy said they explained that this was not something they could do; their role was to give advice on local procedures and offer support, such as accompanying Ms M to the prosecutor's office.

## Ms M's complaints to the FCO

68. Ms M contacted the FCO when she returned to the UK. She told us this was because she wanted to know what support and assistance she could have expected to receive from the Embassy. Ms M told us it was only when she had received the FCO's leaflet on the guidance they could offer British nationals overseas (paragraphs 8 to 11) that she decided to complain.
69. The FCO emailed the Embassy on 23 May 2011 to tell them Ms M was considering making a complaint. In their response, the Embassy said:

*'Ms M kept changing her mind about making a statement, meeting a member of the consular team, getting a lawyer, etc. We advised her as best we could. She was also being advised by friends who may not necessarily know how such matters should be dealt with.'*

The Embassy said they were satisfied they had done all they could to assist her when she was in Cairo.

70. On 24 May 2011 the FCO emailed the Embassy. They said it was *'very clear'* from the case notes that the Embassy had *'provided good assistance'* to Ms M.
71. On 2 June 2011 the FCO sent a diplomatic note (known as a note verbale) to the Ministry of Foreign Affairs in Egypt asking for an update on Ms M's case. The FCO emailed Ms M on the same day. They

told her that they had sent the note and also explained that they had asked the defence section of the Embassy to see if their military contacts could give them an update. The FCO told Ms M that it could take a long time to get an update and there was no guarantee they would get one at all as the military were not obliged to share information with them. They also suggested Ms M consider appointing a local lawyer who would be able to follow up her case with the Egyptian authorities.

72. Ms M emailed the FCO on 8 June 2011. She asked why no one from the Embassy had been able to assist her when she was in Cairo. Ms M said that had someone from the Embassy gone with her to the military compound in Egypt, there would not be so many unanswered questions now (about what was happening with her case in Egypt). Ms M said it was stressful enough that she had been seriously sexually assaulted by a military officer in a country where the military ruled, and to try and report this crime to the military rulers, without also being denied her rights and being treated with impatience, rudeness and serious lack of sensitivity by the FCO, who she believed were there to help her. She said she did not expect justice in Egypt but she expected it in her home country. The FCO replied on 11 June 2011 to tell Ms M that they would investigate the handling of her case.
73. Ms M emailed the FCO on 15 June 2011. She said she wanted written confirmation of what assistance the Embassy were obliged to give her, even if this was no assistance at all. Ms M said she had been sent the FCO's leaflet for victims of sexual assault abroad (paragraph 10). She said this made no specific statements other than that the Embassy would be sympathetic, which she said they were not. Ms M asked the

FCO to outline specifically whether local conditions and laws in Egypt would permit the Embassy to arrange for Ms M to see a doctor to advise her about sexually transmitted infections. Ms M also referred to the section of the leaflet that said that the FCO could provide advice about local police and legal procedures (paragraph 10). She asked how this advice should be given. Ms M said she was following up with lawyers to see if she could bring a case against the Embassy for their failure to provide her with assistance.

### Ms M's first complaint

74. Ms M made a written complaint to the FCO on 18 June 2011. Ms M said that when the Global Response Centre had emailed the list of hospitals (paragraph 25), they had said that they would contact her to talk through next steps but this never happened. Ms M said that the Embassy had implied that all the hospitals on the list she had been sent by the Global Response Centre could gather forensic evidence, when this was not the case. Ms M said that despite being told by the Global Response Centre and the Embassy to report the crime to the police, nobody had offered to accompany her or explain the procedure. She said that nobody from the Embassy had offered to go with her to the hospital either and that the Embassy were unsympathetic and uncaring. Ms M said that since she had been home she had contacted the FCO several times to follow up on her case and to ask why she had not received assistance from the Embassy in Cairo. She said the FCO had continued to be extremely unhelpful.
75. In internal correspondence on 18 June 2011, the Embassy said they had not offered to accompany Ms M to the police because she had told them she was not going

to report the crime. The FCO said it was not the case that the Embassy had told Ms M that as long as she went to a reputable hospital, they would be able to take evidence. Instead, they had told her that they thought she needed to go to a government hospital, and had then later confirmed that this was the case. The FCO said that by the time the Embassy were made aware that Ms M was at the military headquarters reporting the assault, they did not have enough time to get to her and back before the curfew started. As breaching the curfew was a criminal offence, the Embassy decided to handle the situation over the telephone instead. They said that after the deputy head of mission had spoken to Ms M (paragraph 41), he had spoken to a senior officer in Arabic and got assurance that Ms M was allowed to leave the military headquarters. This had been conveyed to Ms M and, as a result of this, she left.

76. The FCO told us that staff were told not to travel during the curfew because it was strictly enforced by the authorities. The FCO said that they had to take into account things like traffic when considering whether to travel in Cairo, as it could often take five hours to get through the city; staff could get caught in the curfew because they had started driving to or from somewhere before it started and not reach their destination in time.
77. On 1 July 2011 Ms M emailed the FCO. Ms M said she would like to request a meeting with the FCO to discuss the treatment she had received and to find out how the Embassy were going to improve their treatment of people in her situation. Ms M said that in addition to this, she would like the FCO to change the information on

their website to say that people will not receive any assistance in circumstances like hers beyond a printed list of lawyers and hospitals. She said the website should also say that the FCO did not guarantee the quality of these services at all, and that it was highly likely that they would be seriously substandard, for example, that the doctors would believe there is no HIV in Egypt. The FCO replied on the same day. They apologised for the delay in getting back to Ms M and said they had just concluded their investigation into her case and were finalising their reply.

78. In internal emails on 5 and 6 July 2011 the FCO said there were a couple of points where, and with the benefit of perfect hindsight, they felt they might perhaps have handled Ms M's case slightly better. (The FCO did not identify what these points were.) However, these points were marginal and they could see why things had happened as they had. They said they appreciated:

*'that in this case the victim was going through a very difficult time emotionally. Ultimately all we can do is offer to meet and keep giving advice. If the victim and those supporting choose to do otherwise and postpone or cancel meetings then we should not be accountable.'*

The Embassy said that had their advice been followed, it was possible that Ms M would have gone through the correct procedures and left Egypt with a clearer understanding of what was likely to happen next. They said it was difficult to see how they could have handled the case differently.

## The FCO's first response

79. The FCO responded to Ms M's complaint on 6 July 2011. They said they were sorry that Ms M felt their handling of her case had added to the distress she had already suffered following the assault. The FCO said they had fully investigated Ms M's complaint, which involved input from staff who had been in touch with Ms M directly, either in London or Cairo, as well as an independent colleague who had not been involved in any aspect of Ms M's complaint. The FCO explained they were under no legal obligation to provide consular assistance and that their external guidance made clear the type of assistance they might be able to offer. The FCO said the Embassy had judged that Ms M, with the assistance of her friends, would be able to navigate and negotiate the Egyptian system to make the necessary appointments and follow these up. They said the Embassy made efforts to assist Ms M with this but practical restrictions, such as the curfew, and miscommunications on appointment times, had complicated this. The FCO said that with hindsight, perhaps the Embassy had taken Ms M's ability to do these things for granted. The FCO said that in these specific instances, and with the benefit of hindsight, the assistance they had provided to Ms M could have been more sensitive to her needs. They said they had raised these points with the Embassy and would improve their services to future customers on this basis. The FCO said they were not in a position to comment on the treatment Ms M received from the Egyptian authorities but they would forward any complaints she may wish to make. The FCO explained what steps Ms M needed to take if she was unhappy with their response.

## Ms M's second complaint

80. Ms M sent an email to the Secretary of State for Foreign Affairs on 7 July 2011 explaining her complaint. Ms M said the response she had been given by the FCO was '*severely inadequate*'. Ms M said the Embassy had never asked her if she could navigate the Egyptian system. She said she was in such a severe state of shock when she first spoke to them that she could not navigate anything. She also said the information they had given her about the curfew (paragraphs 19 and 79) was a lie as she called them at 3pm and the curfew came into force at 2am.

81. Ms M emailed the FCO on 11 July 2011 in response to their complaint letter. She thanked the FCO for clarifying they had no legal obligation to assist her. Ms M asked the FCO why they had not invited her to meet them if they were as dedicated to taking complaints seriously, as they said they were. Ms M referred to the FCO's guidelines on the reporting of torture (paragraph 18). Ms M asked the FCO to confirm whether these guidelines had been adhered to by the Embassy. She asked if it was the FCO's standard response when people reported cruel, inhuman and degrading treatment at the hands of state officials in Egypt to send them back to the state on their own to try to report it. She also asked the FCO to outline specifically whether the local conditions and laws in Egypt would permit the Embassy to arrange for her to see a doctor for advice on sexually transmitted diseases, as per the FCO's guidance on this (paragraph 10). Ms M said the Embassy could quite easily have come with her to report the crime, or helped her arrange to see a doctor and she asked how international law would inhibit them from doing so. Ms M asked whether the FCO were seriously telling her that

without asking her, and whilst she was in a state of *'utter shock and terror'*, they had judged her able to navigate and negotiate the Egyptian system. After hearing her story, when she asked them to help her deal with the military, she said the Embassy refused. She asked the FCO to clear up whether her story sounded insufficient to offer her any help. Ms M said she was quite clearly traumatised and upset telling her story and she said she was very interested in finding out how this meant she did not need any assistance. Ms M asked the FCO to take a minute to imagine what she had been through. She had been traumatised, and the way the Embassy and the FCO had dealt with her, from the minute she first called them to writing her email of complaint, had only added more stress to an already extremely distressing situation. Ms M said that given the high level of stress caused by the FCO's *'total failure'*, she would like a real apology, accepting responsibility, without using phrases such as *'with hindsight'*.

## The FCO's second response

82. The FCO wrote to Ms M on 2 August 2011 in response to her letter to the Foreign Secretary. The FCO apologised that when Ms M had first spoken to the Embassy they did not offer to go to the police with her to report the crime. At that point in time, the Embassy had understood from Ms M that she was undecided about whether to go to the police. The Embassy also understood that Ms M would visit them the next morning and therefore decided it was better to discuss this with Ms M face to face. The FCO said that with hindsight, the Embassy should have mentioned the possibility of accompanying Ms M to the police straightaway. The FCO said the deputy head of mission was unaware that Ms M had already arranged to come to

the Embassy the following morning when he told Ms M that somebody would be in contact with her after 9am and that someone would visit with a list of lawyers. The FCO apologised if these arrangements had not been clear. The FCO said they were sure Ms M understood that they could not account for standards of medical treatment provided in other countries. If Ms M wanted to submit a formal complaint to the hospital, they would be happy to pass that on for her. The FCO said they had discussed the handling of her case with the Embassy and did not feel Ms M's allegation that the Embassy were unsympathetic fairly reflected the service they gave her. The Embassy had told the FCO they felt they were supportive and demonstrated empathy. The FCO said they accepted this was a subjective view and said if Ms M had any specific instances of rudeness or lack of sympathy, they would investigate these further. The FCO said that consular staff are not legally trained and could not provide advice on local legal procedures. They always recommend that British nationals who are the victims of crime overseas should consult a local lawyer and Ms M told them she already had a lawyer. The FCO said their guidance on dealing with allegations of torture or cruel, inhuman or degrading treatment was designed to address issues in detention but they would review their guidance to reflect the fact that such treatment could take place in other situations, such as the attack on Ms M. They also said their torture guidelines made clear that instances of torture or mistreatment relating to consular cases should be reported by consular staff overseas to the FCO in London and this had happened in Ms M's case. The FCO said that if Ms M would like them to do so, they would raise her allegations with the appropriate authorities. The FCO also outlined the

training their staff received on dealing with consular assistance issues, including taking part in specialist workshops on rape and sexual assault.

## Ms M's data protection request

83. On 10 August 2011 Ms M made a data protection request for all notes, emails, letters and any other documented information in relation to her report of being raped in Egypt. She asked for all transcripts, telephone calls and notes from all subsequent telephone calls made and emails sent between staff. The FCO responded the following day. They said they needed proof of her identity in the form of a photocopy of her passport or driving licence, and an original utilities bill or bank/credit card statement to deal with her request. On 12 August 2011 Ms M emailed the FCO. She said she was living in Indonesia and did not have any utility bills registered at the address she had given the FCO when she made her data protection request. Ms M said that she would ask her father to send documents in her name that showed his address in Devon. She asked the FCO to send her data protection paperwork there. Ms M later told the FCO that she had not received a reply to this email.

## Ms M's third complaint

84. Redress emailed the FCO on 30 August 2011.<sup>7</sup> They enclosed a document outlining Ms M's concerns about the responses she had received from the FCO. It set out Ms M's complaint again in detail. In the document, Ms M said that as a result of the Embassy's

failures, her ability to pursue her right to an effective remedy in Egypt had been undermined. She said since returning to the UK, she had constantly struggled to get her concerns about her treatment taken seriously by the FCO. Ms M said she wanted a full acknowledgement that she was not offered appropriate consular assistance, and an apology. Ms M asked that she was given all possible assistance in raising her case at all necessary levels in Egypt. She said she wanted recognition that the crime committed against her was torture, both because it drew attention to the fact that the rape was committed by a state actor, and because the Embassy's response would need to be adjusted appropriately to deal with such cases. Ms M said she had seen no evidence that the procedures on allegations of torture had been followed in her case and she had no evidence that anything was formally reported until she raised it.

85. The FCO acknowledged Ms M's letter on 31 August 2011. In an internal email sent by the FCO on the same day, they said that the document Ms M had put together did *'not read very well'* for them. They said they had addressed many of the issues Ms M had raised in their earlier correspondence with her. And they said they would need to be clear in their next response where there was simply a difference of interpretation about what had happened in Cairo. The FCO said they had stressed to Ms M and Redress that they were keen to move on after this correspondence and focus on what was happening next, such as any trial. They said they thought Ms M and Redress were in the same place.

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<sup>7</sup> Redress are a human rights organisation that help torture victims obtain justice and reparation. They are Ms M's representatives in her complaint to the FCO and to us.

86. On 15 September 2011 the FCO forwarded Ms M's email requesting access to documents under the *Data Protection Act 1998* to teams within the organisation. On 21 September the FCO's data protection team sent Ms M's request to the team dealing with her complaint.

### The FCO's third response

87. The FCO responded to Ms M's complaint on 23 September 2011, setting out their version of events in Cairo on 16 and 17 May 2011. They said that inevitably there were some instances where consular staff recalled events differently to the way Ms M set them out. Where this was the case, the FCO said they had tried to set out the Embassy's account of what happened so they were clear where the differences were. The FCO said they understood Ms M would not agree with some of their points and they did not want to focus on the differences. The FCO also said that staff at the Embassy would be undergoing further training on handling rape and sexual assault cases later that year. The FCO also said that the Embassy were going to improve their record keeping, including more comprehensive details of calls they made. The FCO said the Embassy would also be reviewing the information they had on antiretrovirals and emergency contraception. The FCO set out how they had dealt with Ms M's complaint and said that the final stage of the complaints process was still open to her. The FCO said they remained content that they had carried out a thorough internal investigation into their handling of Ms M's case, in line with their obligations.

### The FCO's handling of Ms M's data protection request

88. On 27 September 2011 the FCO forwarded Ms M's data protection information request to the Embassy.<sup>8</sup> They said the reason for the delay was because of delays in Ms M submitting proof of her identity or address. The FCO said that as the request was received on 10 August 2011, they did not need to submit any information from after that date.
89. The FCO emailed the Global Response Centre on 17 October 2011. They asked if the Global Response Centre had a record of telephone calls made when Ms M was in Cairo. The Global Response Centre replied the following day and said they had downloaded all the recordings of telephone calls they had onto a disc.
90. The FCO wrote to Ms M about her data protection information request on 21 October 2011. They said they had enclosed with their letter all the relevant information they held that she was entitled to.
91. On 25 October 2011 the Global Response Centre emailed the FCO and said they had identified a number of telephone calls relating to Ms M's case. On the same day Ms M emailed the FCO to find out where the information they had sent her was. The FCO explained that they had sent the information to Ms M's London address but there had been nobody there to receive it so it had been returned to the local sorting office. Ms M told the FCO she had sent them several emails asking them to send the information to her father's address, none of which had been acknowledged.

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<sup>8</sup> The FCO told us they had received Ms M's proof of address on 14 September 2011.

The FCO said they had checked with Redress before they sent the information and had agreed with them to send it to Ms M's London address. The FCO said they would arrange for a second copy of the information to be sent to the alternative address Ms M had given them. Redress emailed the FCO on the same day. They said when the FCO had checked with them before they sent the information, Redress had asked for the information to be sent to Ms M's UK address for which she had sent proof of address; this was Ms M's father's address.

92. On 9 November 2011 the FCO emailed Ms M. They said they had been able to identify recordings of the telephone calls between Ms M, Friend A and Dr M and the Global Response Centre in May 2011. The FCO said that this data had not been available when they sent the other data protection information Ms M had requested as it had taken some time to obtain it.
93. On 7 December 2011 Redress sent an email to the FCO about Ms M's case. They said Ms M remained unsatisfied with the FCO's response to her complaint; this had been given further weight by the new information Ms M had received as part of the data protection information request.
94. On 14 December 2011 Ms M met the FCO. In a note of the meeting made by the FCO, they said they had apologised again to Ms M about the miscommunication (about whether somebody from the Embassy would visit her). They told Ms M that they had learnt lessons from her case and were committed to making improvements in certain areas of their service.

## Ms M's final complaint to the FCO

95. Redress wrote to the FCO on 19 December 2011. Redress said that the transcripts Ms M had received from the FCO showed that the Embassy had promised that an official would visit Ms M on 17 May 2011. Ms M was very concerned that it had taken the FCO so long to provide these transcripts and that they had not been taken into account in their responses to her complaint. Ms M was also dissatisfied with the FCO's handling of her complaint. Redress said she would like compensation of £3,500 to cover the expenses she had incurred<sup>9</sup> and in recognition of the considerable additional distress and inconvenience she had been caused by the lack of support she had received from the Embassy, and the FCO's subsequent handling of her complaint.

## The FCO's final response

96. On 10 January 2012 the FCO's director of consular services replied to the letter from Redress (paragraph 95). The director said that conditions in Egypt had been difficult in May 2011 and this was reflected in the FCO's travel advice, which particularly highlighted the dangers of travelling to North Sinai (paragraph 19). The director said that local factors may affect the assistance an embassy could provide. Whilst there was no legal obligation to provide consular assistance, the FCO always tried to provide British nationals with the appropriate help or guidance in the circumstances. With hindsight, the Embassy should have explained to Ms M at the outset what they were and what they were not able to do for her in the circumstances she found herself in. The director said he acknowledged that certain aspects of

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<sup>9</sup> Redress said this included £500 for costs of telephone calls during the events of 15 and 16 May 2011.

Ms M's complaint about the FCO's service were justified, but he did not fully accept Redress's analysis of the failure of the service. He therefore did not consider that financial compensation was appropriate. The director said if Ms M was unhappy with the response, she could complain to us or to the relevant government minister.

## The FCO's contact with the Egyptian authorities once Ms M had returned to the UK

97. Following their note verbale on 2 June 2011 (paragraph 71), the FCO contacted the Egyptian authorities about Ms M's case on at least seven occasions. These included sending further note verbales asking for updates on the case; a meeting between the Embassy's defence attaché and senior military officials; and a meeting between an FCO minister and the Egyptian ambassador. We have seen no evidence that the FCO were given any updates on the case by the Egyptian authorities or that they were given a case reference number.

## Ms M's comments

98. Ms M told us that when she first spoke to the Global Response Centre, her priority was to get to a hospital so that she could have a medical examination, and not because she wanted to report the crime to the police. Ms M said the thought of reporting the crime made her feel terrified and scared for her life. She said she would have been frightened of reporting the crime to police, regardless of who the perpetrator was, but the fact the perpetrator was a military official made this prospect even more terrifying. She said she believed the military might kill her if she were to report what had happened.

99. Ms M said that when she went to report the crime to the tourist police, it was complete chaos. The police officers were all men and were talking over each other and swatting flies. She said the situation was extremely intimidating; she said she became very scared and had a panic attack and was hyperventilating. She said she wanted to leave but was told she would have to go to the military headquarters. In the car on the way there, Ms M said officers started interrogating her but she told them she wanted a proper interview and did not want to give her evidence in the back of a car. Ms M said that having lived in Egypt for three years, she was aware how difficult it was to report a crime like this and she was aware there were no female police officers. Ms M said it would have made a huge difference if the Global Response Centre or the Embassy had told her that it was a possibility that someone from the Embassy could accompany her to the police. Had they done so, she would have felt far less anxious about reporting the crime. She also believed that the Egyptian police would have taken the crime more seriously.

100. Ms M told us she believed that if she had been accompanied by an Embassy official, she would not have been taken to the military headquarters and held at gunpoint. Ms M said she was terrified at the military headquarters and would have felt less scared if someone from the Embassy had been there with her.

101. Ms M said she had only been able to leave the military headquarters because she had agreed to go back at 9am that morning. She said she had missed this appointment because she was at the apartment waiting for the consular official that the deputy head of mission had arranged to send. Ms M said she was very scared the military

would be waiting to arrest her if she left the apartment because she had failed to return at the scheduled time. She said when she telephoned the Embassy to ask when the car was coming to collect her she was told *'Madam, we don't send cars'*.

102. Ms M said she would definitely not contact the FCO if she ever went to Egypt again and would not count on their support in any way. She had thought she could count on them in an emergency; however, they had done nothing to help her at a time when she was very scared. Ms M said she was repeatedly in the position of trying to convince different staff that she needed assistance or had legitimate concerns. She said where she acceded to the view of the FCO that she should not be concerned or that she was mistaken, she had done so out of frustration rather than because she agreed with them. Ms M said she had been very anxious to return to the UK quickly so that she could obtain access to post-exposure prophylaxis as the Embassy had not assisted her with this.

103. Ms M said she had run up a big telephone bill when she was in Cairo. She said the FCO had not offered to contact her family for her. When she telephoned her family herself, she had used her British SIM card because she was worried that the Egyptian authorities might tap her phone if she used her Egyptian one and find out where she was and arrest her. (Calls would have been cheaper from the Egyptian SIM card as Ms M's family would have been able to telephone her back at no cost to her.) Ms M said that had someone from the FCO been with her, whilst they would not have been able to prevent the Egyptian authorities from tapping her phone, she would not have been frightened of them coming to arrest her as the Embassy would have been with her. The cost of these calls totals £65.58. Ms M also incurred costs of

£586.31 flying back to Cairo for ten days in December 2011 in an attempt to find out information about the prosecution of the perpetrator.

104. Ms M said that when she had initially contacted the FCO when she returned to the UK, she had not intended to complain; she just wanted to know what support and assistance she could have expected. It was when she read the FCO's leaflets about support for British nationals abroad that she realised all the things they could have helped her with but had not.

### The FCO's comments

105. The FCO told us that Ms M's case arose just after a period of political unrest in Egypt and severe security and travel constraints had only just been lifted on staff in Cairo. Most of their consular staff at the Embassy are Egyptian nationals whose personal lives had been affected by the revolution. The FCO said their staff had shown huge commitment and resilience during this period and had continued to provide excellent consular assistance to many distressed British nationals in difficult circumstances. The FCO told us they had deployed additional staff to assist the Embassy staff at that time.

106. The FCO told us they tried to make their guidance generic so that it could be applied in many different countries. They said it would depend on how vulnerable or in need a person was as to whether or not they offered to accompany them to report a crime. The FCO said they would always strongly recommend that people reported crimes to the police, and where there were risks in doing that, the FCO would explain the risks. The FCO told us they wanted to give people options and be neutral and supportive. They also told us staff would only offer to accompany someone to

report a crime if they had already decided to report it. This was because they did not want to be seen to be influencing that person. The FCO also told us that they would generally always advise a British national to report a crime but where there were risks in doing so, the FCO would explain the risks, rather than advising the person not to go to the police.

107. The FCO told us they accompanied British nationals to report crimes to the police because they could encourage the police to take the crime seriously. They could also offer assistance such as asking for the person to be seen by a woman officer, or asking for someone who spoke English. The FCO said they could not make the authorities do anything and were effectively in the position of appealing to the police's better nature. The focus of their assistance was around the welfare of the individual. The FCO told us that if they had accompanied Ms M to the military headquarters, the process she had to follow would have been the same and that the process was very slow; they could make '*polite requests*' if they were concerned the process was not being followed.
108. The FCO told us that the way they prioritised people depended on their vulnerability. They said that rape was often seen as a loss of power and because of this, they were careful not to force FCO information or procedures onto victims.
109. The FCO said that someone at the Embassy would have known about post-exposure prophylaxis. They said that post-exposure prophylaxis was illegal in Egypt but they knew doctors who were able to provide it under the counter. The FCO said that as Ms M left Egypt quickly, this meant she would have been back in the UK in time to access post-exposure prophylaxis.
110. The FCO told us they found it difficult to get information out of the military about cases it was dealing with and that the military did not routinely give out case reference numbers.
111. In response to our draft report, the FCO told us they were committed to learning as much as they could from Ms M's case to improve consular services in the future. They have provided us with details of the work they have undertaken since Ms M's complaint. This includes improving their internal rape and sexual assault guidance and training for consular staff. The FCO told us much of the content of this guidance was the same as in previous versions but they said they had made important additions, including emphasising that safety is the overwhelming need of the victim, and encouraging embassies to create country-specific information, including information on legal processes. The FCO have also undertaken work at the Embassy to learn lessons from Ms M's case and apply these to their handling of other rape and sexual assault cases. Amongst other things, Embassy staff have: undergone follow-up training on handling rape and sexual assault cases; made efforts to improve relationships with the Egyptian military to encourage better liaison and follow-up on consular cases; identified a private doctor who could potentially prescribe appropriate medication for rape victims; made improvements to record keeping; and produced a guidance note on legal and medical procedures when dealing with sexual assault cases in Egypt. The FCO have also created a stronger regional management structure to ensure consistency, high standards and good resource management. Further information about the work the FCO have undertaken is in Annex C of this report.

## Our findings of maladministration and injustice

112. Ms M complained about the service she received from the FCO when she sought assistance after she had been raped in Egypt in May 2011. She said that the service provided at the time and over the following three days was far below what she was entitled to expect. Ms M said that she had thought she could count on the FCO in an emergency; however, they had done nothing to help her at a time when she was very scared. In particular, Ms M complained that the FCO did not: offer to accompany her to report the crime; explain clearly how they could help her; help to arrange a medical examination immediately; help her to identify a lawyer who could best deal with her case; and did not have knowledge of post-exposure prophylaxis.
113. Rather than addressing each of these issues in isolation, we will consider chronologically the advice Ms M was given by the FCO when she first contacted them and whether this was reasonable in the circumstances, using the Ombudsman's Principles and the FCO's own processes and procedures as the standard against which to make our findings.

### Ms M's contact with the Global Response Centre

114. When Ms M contacted the Global Response Centre on 15 May 2011, she did so because she was in an emergency and needed consular assistance (paragraph 26). Her priority was to receive medical attention as quickly as possible (paragraph 24). She therefore needed accurate, usable information that was specific to her circumstances. As such, Friend A's first conversation with the Global Response Centre (paragraph 24) was a crucial opportunity for the FCO to give relevant advice. She needed to know how to find a suitable hospital and arrange an appointment, and what support the FCO could provide. The FCO's guidance says that consular staff should offer to arrange for a person who has been raped or sexually assaulted to see a female doctor and to accompany the person to do that (paragraphs 12 to 14). If the Global Response Centre were unable to make such an offer because they were unaware of the Embassy's capacity to do this, they should have immediately referred the case to the Embassy. Instead, the Global Response Centre failed to make Ms M aware of any assistance the Embassy might be able to give her.
115. Ms M also needed information about what she needed to do to ensure that the hospital she visited could take forensic evidence that she might need for any future criminal prosecution. The importance of this was made clear by the Embassy when they told Ms M later that day she needed to keep her clothes and not shower in order to protect any forensic evidence. By this point Ms M had taken a shower (paragraph 29). Ms M was not provided with this information during this first telephone call. Further, the advice about hospitals given by the Global Response Centre was not tailored to her individual needs. The list of hospitals the Global Response Centre sent to Friend A was a generic list used by the Embassy for staff and people requiring medical treatment in Cairo (paragraph 14). The Global Response Centre said that all the listed hospitals were considered to have adequate facilities available. However, this advice turned out to be inaccurate

as it became clear that Ms M needed to visit a government hospital in order to be forensically examined and to do this she needed a referral from the police (paragraph 32). We consider the FCO should have thought about this when they gave Ms M advice about hospitals; the Global Response Centre clearly had in mind that Ms M would want to prosecute the perpetrator because they told her she would have to report the crime to the police at some point if she wanted to press charges. They should have borne this in mind when giving Ms M advice about hospitals and, if they felt they lacked the local knowledge to do so, they should have referred the case immediately to the Embassy. The Global Response Centre should have explored with Ms M what she might do if she found all the hospitals on the list to be closed (paragraph 24), for example, when the hospitals might reopen or whether Ms M could find a pharmacist. The Global Response Centre failed to be 'customer focused' by not communicating effectively with Ms M the information she needed and that was appropriate to her and her circumstances.

116. When the Global Response Centre telephoned Friend A back, Friend A made it clear that Ms M was uncomfortable about the prospect of reporting the crime to the police (paragraph 26). At that moment, Ms M needed clear, practical guidance about the implications of a decision not to report the crime and the support available to her if she were to report it. The Global Response Centre only offered generic advice, telling her that it was entirely up to her what she did but that both they and the Embassy would tell her to report the crime to the police if that was what she wanted to do, failing to explore Ms M's genuine fears about reporting the crime to the police. Her friend had made it

very clear during the telephone call the circumstances as they saw them; namely that the military were essentially the police in Egypt at that time. As such, reporting the crime to the police effectively would mean reporting the crime to the military and Ms M was therefore very frightened about what the police might do to her once she reported the crime (paragraph 98).

117. The Global Response Centre failed to consider whether Ms M's fears might have foundation. The FCO told us that where there are risks in a person reporting a crime to the police, they will explain those risks (paragraph 106). We have seen no evidence that the Global Response Centre considered the risk of Ms M going to the police, or acknowledged that she had been raped by a military official and what impact this might have on the way they handled her case. Crucially, the Global Response Centre also failed to make Ms M aware of any potential support the Embassy might have been able to give her in reporting the crime to the police. Ms M has said that it would have made a huge difference if she had been informed that someone from the Embassy could accompany her to the police and had they done so, she would have felt far less anxious about reporting the crime. Informing Ms M of the possibility that she could be accompanied to the police station was therefore critical to Ms M making an informed decision about what she should do.
118. Again, had the Global Response Centre had concerns about making offers of help without knowing the Embassy's capacity to follow them through, they should have immediately contacted the Embassy. The Global Response Centre only referred the case to the Embassy after some insistence from Friend A and Ms M that they needed advice more tailored to their circumstances

(paragraph 26). The Global Response Centre failed to listen to what Ms M was telling them and respond flexibly and appropriately to her circumstances. This was a failure to be 'customer focused'.

## Ms M's contact with the Embassy on 15 May 2011

119. In the three subsequent telephone calls between Friend A and Ms M and the Embassy on 15 May 2011 (paragraphs 29, 31 and 33), Ms M again required advice that was specific to her circumstances. When she first spoke to them, she had not received any tangible advice about what she should do or how the FCO could help her. Ms M needed information and support to enable her to make informed choices about what she might do next. The Embassy did not provide this. The FCO's guidance says that the Embassy should have arranged to see Ms M as soon as possible (paragraph 12); instead they arranged an appointment for the following morning. Their guidance also says they should offer to arrange for an individual to see a female doctor at the hospital (paragraph 14). They failed to do this, despite knowing that Ms M was on her way to a private hospital as a priority. The Embassy also did not provide Ms M with any information about sexually-transmitted diseases or post-exposure prophylaxis, despite guidance that they should do this (paragraph 15). Further, they failed to follow their guidance in not offering to contact Ms M's family in the UK (paragraph 12). The only advice the Embassy recorded giving was 'reminding' Ms M about the morning-after pill, not showering and to keep her clothes; there is no evidence that the FCO gave Ms M any information about where she could get the morning-after pill.
120. In addition to this, there is nothing in the Embassy's notes to show they considered Ms M's emotional state during these conversations. They simply noted Ms M sounded '*calm and in control*'; behaviours the FCO's own guidance highlights as possible indicators of shock. This indicates a failure by the Embassy to consider how to react to Ms M, something the FCO's internal guidance describes as '*very important*'. In their discussions with Ms M, the Embassy failed both to follow their own procedural guidance, and to treat Ms M with sensitivity and take into account her individual needs. This was a failure to be 'customer focused'.
121. In the second of the three telephone calls (paragraph 31), Friend A asked whether Ms M needed to get a medical check at a government hospital in order for evidence to be gathered that would be considered 'valid' by the authorities. The Embassy said that Ms M would need to visit a government hospital, and that the police would refer her to one when she reported the assault. This information was correct. However, at no point during their contact with Ms M did the Embassy make it known they could accompany her to the police station, despite the fact that Ms M had raised concerns about reporting the assault to the police at that time.
122. The FCO told us that whether or not they offer to accompany a person to report a crime depends how vulnerable or in need a person is, but they did not want to be seen to influence a person's decision. We cannot imagine there are many circumstances in which a person could be more vulnerable. Nor can we see how an offer of support in these circumstances could have been construed as influencing Ms M. Instead, we consider it would have alleviated some of the anxiety and fear

she was experiencing and given her some confidence that the FCO were able to help. Their failure to offer this support continued even after it became apparent in their third telephone call with Friend A that Ms M was considering going to the police (paragraph 33).

123. Furthermore, we have seen no evidence that the Embassy made Ms M aware of the curfew in operation in Cairo at that time, despite this being strictly observed by their staff and recognised as an arrestable offence (paragraph 19, footnote 4) and despite the fact Ms M left the military headquarters in the middle of it (paragraphs 41 to 46). Nor did the Embassy tell Ms M that they would be able to provide her with a list of English-speaking lawyers. Instead, it appears that they had decided to wait until the following morning to make Ms M aware of any consular assistance she might be able to receive.
124. Ms M said she decided early on that the FCO were not going to help her. We can understand why she reached this conclusion. There seems to be no logical reason why the Embassy should have considered it appropriate to wait until the following morning to give Ms M information about the support they could give her. She had first contacted the FCO at 3.24pm on 15 May 2011 and the curfew in Cairo did not start until 2am the following morning. There was therefore no physical reason why a member of the Embassy's consular staff could not have arranged to meet Ms M immediately, or offered to accompany her to the hospital or to report the crime to the police straightaway. The Embassy failed to communicate effectively information that was appropriate to Ms M and her circumstances. Here, they failed to be 'customer focused'. They also failed to

follow their own procedural guidance and as such, failed to 'get it right'.

## **Ms M's contact with the Embassy at the military headquarters**

125. When the deputy head of mission made contact with Ms M when she was at the military headquarters during the early hours of 16 May 2011, she again needed clear advice about what was happening and what she should do. Ms M was frightened that she was unable to leave the military headquarters and about what might happen to her. We recognise that the curfew in Cairo meant that Embassy staff could not travel to the military headquarters at that time. However, Ms M still required consular assistance that was relevant to her circumstances and that she could rely on. In two telephone conversations with the Global Response Centre, the deputy head of mission told them he would be sending a consular official to see Ms M later that morning (paragraphs 40 and 45). He also sent Ms M a text message asking her for the address where she was staying so the Embassy could contact her there (paragraphs 49 and 50). It is reasonable to conclude from this that the deputy head of mission anticipated sending someone to visit Ms M where she was staying; this is what Ms M believed, even if there was misunderstanding about the purpose of the visit (paragraphs 48 and 53). The deputy head of mission himself acknowledged this the following day, although he said he had only arranged to send someone to see Ms M with a list of lawyers (paragraph 53). In none of his conversations with the Global Response Centre or Ms M did the deputy head of mission refer to a list of lawyers. There is no evidence that the deputy head of mission told the Embassy about the arrangements he had made

with Ms M until after the Embassy heard about them from Ms M herself. As such, no arrangements were put in place for a consular official to visit Ms M on the morning of 16 May 2011 as she expected. The FCO failed to do what they said they were going to do and did not explain to Ms M why this was the case. This was a failure to be ‘customer focused’.

## Our overall conclusions

126. The FCO told us that their approach to consular advice remained the same despite the political unrest in Egypt at the time of Ms M’s complaint (paragraph 27), and that the advice is generic in order to suit a range of circumstances (paragraph 106). Whilst we accept this may have been the case, in some cases it is necessary for public organisations to take a novel approach in order to bring a better result or service. The FCO needed to take a holistic approach when Ms M contacted them; considering her individual needs and how they could customise their support to meet them. As the organisation responsible for providing consular advice to British nationals, the FCO were clearly in the strongest position to offer authoritative, tailored advice from the start. We consider the FCO failed to do this and as such, failed to get it right to such an extent that it was maladministrative. In addition, they failed to communicate with Ms M in a way that was appropriate to her circumstances. We have seen no evidence that the FCO treated Ms M particularly sensitively or responded flexibly to the circumstances of her case. This was a failure to be ‘customer focused’ that was so poor that it was maladministrative.

## The FCO’s complaint handling

127. Ms M complained that the FCO had not handled either her complaint to them or

her request for information appropriately. It appears that throughout the complaints process, the FCO took a defensive approach. The FCO acknowledged that with perfect hindsight they might have handled Ms M’s case better but said the points where they could have done this were marginal (paragraph 78). This appears to be the position the FCO took throughout their consideration of Ms M’s complaint. In all their responses, the FCO acknowledged their assistance could have been more sensitive to Ms M’s needs, and that they could have done more but they never considered the impact of these failures on Ms M, instead taking a defensive approach by implying that it was Ms M’s failure to follow their advice, and external circumstances in Egypt, that had been at issue (paragraphs 75, 78 and 96). The FCO’s responses fail to recognise the impact their failure to provide relevant advice and information had on Ms M, who was a vulnerable person and in shock when she contacted them. The FCO also failed to explain to Ms M what should have happened in her case. Public organisations should be open and honest when accounting for their decisions and actions. Additionally, they should avoid being defensive when things go wrong. We do not consider the FCO did either of these things in their handling of Ms M’s complaint. These failures to be ‘open and accountable’ and to act ‘fairly and proportionately’ were so poor that they were maladministrative.

128. As part of her complaint, Ms M made a data protection request (paragraph 83). On 12 August 2011 she told the FCO her father would be sending the necessary identification documents and asked for her paperwork to be sent to his address in Devon (paragraph 83). The FCO received this information on 14 September 2011.

This meant their 40-day deadline for completing the data protection request was 24 October 2011. However, the FCO failed to have all the information Ms M requested by this date. They did not send her transcripts of telephone calls until after 9 November 2011 (paragraph 92), exceeding their 40-day target by two weeks. The FCO said this was because it had taken them some time to obtain the information (paragraph 92). The evidence shows that this information was available by 18 October 2011 (paragraph 89). It is therefore not clear why this could not be sent to Ms M with the rest of her data protection documents. This was a failure by the FCO to act in accordance with their data protection guidance and as such, was a failure to 'get it right'. They also failed to send the information to the address Ms M had given them (paragraph 91). This was a failure to handle the information Ms M had given them properly and was a failure to be 'open and accountable'. Taken together, these failures were maladministrative.

## Our findings of injustice

129. When Ms M contacted the FCO, she had been through a terrifying ordeal and was vulnerable and frightened. She contacted the FCO looking for support and advice about what she should do. She was anxious to get medical attention and believed that the FCO would be the best people to provide her with the information she needed to do this. Instead of providing Ms M with the help she needed, the FCO made a series of assumptions about Ms M's ability to cope and find her way through a process which she was both fearful and unclear of. The FCO's failure to take a tailored approach to the assistance they provided to Ms M meant she was denied the opportunity to make informed decisions about the actions she took. She

was left in a position of making decisions without full knowledge of the implications of these or the support that was available.

## Support and advice about reporting the crime to the police and options regarding medical treatment

130. Had the FCO been clear with Ms M about the support she could receive from them and what procedures were in Egypt, she would have been clear from the outset what her options were regarding medical treatment and forensic evidence, and reporting the crime to the police. She should have been assured that the FCO understood the specific circumstances of her case and that they would respond flexibly to them. In those first few hours, Ms M should have had all the information she needed about the support she could receive.
131. Although Ms M told the Embassy she did not want to report the crime to the police, she told us that had the Embassy offered to accompany her to report the crime to the police, she would have taken them up on this offer. Her reluctance at the time was because she was scared of what might happen and feared the police might arrest or kill her (paragraphs 98 and 101). We find Ms M's reasoning here to be compelling and have no reason to doubt that she would have taken the Embassy up on their offer had they made one.
132. Having someone from the Embassy to accompany her in an official capacity would have eased Ms M's anxiety about any consequences of reporting the crime. Further, if the Embassy had offered to accompany Ms M, she would most likely have reported the crime sooner and her overall anxiety about the process

would have been reduced. An Embassy official would have been able to explain the process to Ms M and answer any questions she had, and make requests on her behalf, had she wanted to stop the interview or leave (paragraph 107). Instead, Ms M had to endure a number of hours of fear and anxiety reporting the crime to the police when she should have had support from the Embassy. Had it not been for the FCO's maladministration, Ms M would also not have spent time the following morning waiting for a consular official to arrive and she would have avoided the fear she experienced at believing she would be arrested if she left the apartment (paragraph 101). As the FCO have told us, the focus of their assistance when they accompany someone to the police is around the welfare of the individual. We cannot say how long Ms M might have spent reporting the crime had someone from the FCO been with her, but she was less likely to have left the military headquarters before she had completed her statement and would therefore have avoided having to complete it the following evening (paragraph 65). Because of the FCO's maladministration, Ms M was in a position of reporting the crime without any official support, in the presence of a room of men who did not speak English and who had guns (paragraph 100). This must have greatly heightened Ms M's fear and anxiety at that time.

133. Had the FCO provided Ms M with relevant advice and information, they could have explained to her promptly and fully that she needed to go to a government hospital for forensic evidence to be gathered and that the police would arrange the referral. Ms M could then have decided whether to seek immediate medical attention, or, with the FCO's support, to report the

crime and get a referral to a government hospital. Instead, because of the FCO's maladministration, Ms M was uninformed about the process and had to go through two medical examinations, rather than being able to make an informed choice about what she wanted to do.

134. Without the FCO's maladministration, Ms M's experience of reporting the crime and receiving medical treatment would have been shorter and less traumatic. Had she had the FCO's support and advice, she could have completed the difficult process of reporting the crime and being medically examined by 16 May 2011, rather than this continuing over to the following day. Ms M would not have spent time trying to work out what she should do next and would have been reassured that even though the process was difficult and upsetting, she was taking the right steps to get through it.

## Incurred costs

135. Ms M said she incurred costs telephoning her family in the UK, which we consider she could have avoided had the FCO supported her. Ms M feared the Egyptian authorities would tap her Egyptian SIM card and arrest her. We recognise that the presence of the FCO would not have prevented any phone tapping, but Ms M would have felt reassured that arrest by the Egyptian authorities was less likely had the FCO been with her, and this would have reduced her anxiety sufficiently that she could have continued to use her cheaper Egyptian telephone.
136. Ms M also incurred costs as a result of having to return to Egypt to find out what was happening with her case. We do not though consider that these costs arose as a consequence of the FCO's maladministration. Ms M would have been in the position of having to return to Egypt

regardless of the FCO's maladministration. The FCO say they can keep a person up to date with the progress of their case, but only if the authorities will provide them with information (paragraph 11); they do not have any powers to demand it. In Ms M's case, the FCO made a series of requests to the Egyptian military (paragraphs 71 and 97). However, they received no response and given their limited powers (paragraphs 5 and 8), we do not consider they could have taken action beyond this. Nor can we conclude that had the FCO attended the military headquarters with Ms M, she would have been more likely to have been given a case reference number because the evidence suggests the military did not provide case reference numbers routinely (paragraphs 97 and 110). The FCO say that they advise people to appoint a lawyer who can get this sort of information more easily from the Egyptian authorities (paragraph 11) and we consider this to be reasonable advice. As such, we do not consider the FCO's maladministration contributed to Ms M's difficulties in finding out how the prosecution was progressing and therefore we do not consider them responsible for the costs Ms M incurred in returning to Egypt in December 2011.

failed to fully acknowledge and take responsibility for their failures or provide her with the information she needed promptly. Ms M had already suffered a loss of faith in the FCO's ability to assist her when she was in Egypt, and this was further exacerbated and reinforced by these additional failures when she was back in the UK.

## **Complaint handling and Ms M's data protection request**

137. Ms M was left angry and frustrated by the FCO's subsequent failure to handle her complaint and data protection request properly. Having gone through such a difficult experience when she was in Egypt, Ms M needed a prompt, complete response to her complaint and data protection request so that she could complete her dealings with the FCO promptly and focus on her recovery. Instead, Ms M had to enter into a lengthy complaints process because the FCO

## Concluding remarks

138. Ms M's expectation that the FCO would be able to help her after she had been assaulted was a reasonable one; they were the people who were supposed to support her and provide her with high-quality help (paragraph 4). Ms M was far away from home, she had been through a terrifying ordeal, and the FCO were the only authority she could approach for help. She should have been able to rely on them to fulfil their role and assist her when she was at her most vulnerable. We have concluded, however, that the FCO failed to give Ms M the assistance she should have reasonably expected to receive. We can understand therefore why Ms M now feels as though she could not count on the FCO's support if she went to Egypt again. We can also understand why her trust in the FCO's ability to provide support to people in her circumstances has disappeared, as well as her confidence in the FCO being able to 'put things right' following their failures.

## Recommendations

139. In line with our Principles for Remedy, where maladministration or poor service has led to injustice or hardship, public organisations should try to offer a remedy that returns the complainant to the position they would have been in otherwise. If that is not possible, the remedy should compensate them appropriately.
140. In order to remedy the injustice Ms M suffered as a result of their maladministration, the FCO have agreed that a senior official will write to Ms M to apologise for the distress, anxiety and lack of support or appropriate information they caused. They will do this within four weeks of the date of the final report.
141. We also recommend that, within four weeks of the date of the final report, the FCO pay Ms M £1,000 to compensate her for this injustice. This amount includes the costs of the telephone calls Ms M incurred whilst she was in Cairo (paragraph 135). The FCO have agreed to this.
142. We also consider it would be helpful to Ms M to receive some assurance that the FCO have learnt from the handling of her case. As such, the FCO have agreed to carry out a review of their handling of Ms M's case in light of the maladministration we have identified. In particular, this review should consider how the FCO can make sure individuals are fully informed about the implications of their decisions, and receive advice and support that is empathetic and tailored to their individual circumstances. The FCO should report back to us within three months of the date of this final report with their findings and what action they are going to take, and also share these with Ms M and her MP.

## Annex A

### Our role and approach

- A1. Our role is formally set out in the *Parliamentary Commissioner Act 1967*. It is to consider complaints about the way certain public organisations in jurisdiction have carried out their administrative functions. We start by considering whether there has been maladministration by the organisation. We then consider whether that has led to an injustice that has not been put right. If we find an injustice that has not been put right, we will recommend action. Our recommendations might include asking the organisation to apologise or to pay for any financial loss, inconvenience or worry caused. We might also recommend that the organisation takes action to stop the same mistakes happening again.
- A2. The *Parliamentary Commissioner Act 1967* sets out the public organisations that we can look at. We have to be sure that we can look at the organisation that has been complained about before we do anything else. If we can look at it, we can also look at actions taken for that organisation by others.

## Annex B

### How we consider complaints

- B1. When considering a complaint, we begin by comparing what happened with what should have happened. We consider the general principles of good administration that we think all organisations should follow. We also consider the relevant law and policies that the organisation should have followed at the time.
- B2. If the organisation's actions, or lack of them, were not in line with what they should have been doing, we decide whether that was serious enough to be maladministration or service failure.

### The relevant standards in this case

- B3. Our Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy<sup>10</sup> are broad statements of what public organisations should do to deliver good administration, provide good customer service and respond properly when things go wrong.
- B4. The Principles of Good Administration particularly relevant to this complaint are:
- *'Getting it right'* – public organisations should follow their own policy and procedural guidance, whether published or internal.
  - *'Being open and accountable'* – public organisations should be open and truthful when accounting for their decisions and actions. They should also handle and process information properly.

- *'Being customer focused'* – public organisations should do what they say they are going to do. If they make a commitment to do something, they should keep to it, or explain why they cannot. They should communicate effectively, using clear language that people can understand and that is appropriate to them and their circumstances. Public organisations should also treat people with sensitivity, bearing in mind their individual needs, and respond flexibly to the circumstances of the case.
  - *'Acting fairly and proportionately'* – public organisations should avoid being defensive when things go wrong.
- B5. The Principle for Remedy particularly relevant to this complaint is:
- *'Putting things right'* – where maladministration has led to an injustice, public organisations should try to offer a remedy that returns the complainant to the position they would have been in otherwise. If that is not possible, the remedy should compensate them appropriately.

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<sup>10</sup> The Ombudsman's Principles is available at: [www.ombudsman.org.uk](http://www.ombudsman.org.uk).

## Annex C

### The FCO's response to Ms M's complaint (taken from the FCO's comments on the draft report)

*'The FCO is committed to learning as much as we can from this case to improve our consular services for the future. Work in several key areas has already been completed, so I thought it might be helpful to update you on this progress as well as set out what further steps we are now taking.*

*'We undertook significant work to improve our internal rape and sexual assault guidance and training for consular staff. This started in 2011 and resulted in updated guidance being issued in October 2012. This work was partly inspired by Ms M's case but also involved extensive consultation with consular staff worldwide and with external experts, including specialist police groups, local authority independent sexual violence advisers/ advocates, joint police/Department of Health Sexual Assault Referral Centres, and NGOs [non government organisations] such as Rape Crisis. Much of the content is the same as in previous versions, but there are important additions, and changes to the way we have structured the chapter. These changes include:*

- 'Emphasising that safety is the overwhelming need of a victim. This was not brought to the fore in previous guidance and was a learning point from Ms M's case;*
- Aligning the guidance with the cross-government Violence Against Women and Girls (VAWG) strategy: to ensure that learning from other strands of that work was acknowledged and links made with other relevant guidance such as that for working with children and young people;*

- Changing the terminology to reflect the fact that all sexual assault is serious (previous guidance only related to "serious" sexual assault);*
- Ensuring that the guidance, whilst recognising that rape is a form of VAWG and that women are more likely to be the victims, addresses male victims and specific issues when a man is raped;*
- Linking in with torture and mistreatment guidance to acknowledge the specific lessons learnt from Ms M's case, and that additional problems may arise when sexual assault is carried out by a member of the authorities, therefore requiring more assistance and other forms of reporting or follow up;*
- Encouraging posts to create country specific information, including information on legal processes;*
- Ensuring that staff at the earliest opportunity signpost victims to relevant NGOs either in the UK or locally, so that the victim can receive specialist support as quickly as possible.*

*'We produced a workshop to accompany the new guidance. The overall aim of the workshop is to provide staff with the knowledge and confidence they need to provide the right kind of help in the local environment in which they operate. They are used by consular managers and their teams overseas to explore an area of guidance and make sure it is understood by all and can be applied properly locally. It contains a range of open questions on key points within the guidance, which teams can consider and discuss. The workshop was launched at the end of 2012 along with the new version of guidance, and has been taken up across the network in both London and overseas.*

*'We have similar work underway, but not yet complete, on our internal guidance on torture and mistreatment cases. One aspect of this has been to expand the mistreatment guidance to reflect that torture and mistreatment can occur in situations other than formal detention – a point we eventually recognised and responded to in Ms M's case but recognise that we should have addressed much earlier. The updated draft guidance is currently out for consultation with external NGOs.*

*'In Cairo we have undertaken a range of practical follow-up steps with consular staff and local contacts to learn from this case and where applicable apply to their handling of other rape and sexual assault cases. These points are covered in full in T's letter to Ms M of 23 September 2011, and include:*

- 'Staff in Cairo undergoing follow-up training on handling rape and sexual assault cases in October 2011;*
- Efforts to develop and improve relationships with the Egyptian military to encourage better liaison and follow-up on consular cases;*
- Identifying a private doctor potentially able to prescribe appropriate medication for rape victims in Egypt and ensuring that information is provided to victims as a priority;*
- Improvements to record-keeping for consular cases;*
- Guidance note produced on the legal and medical procedures for dealing with sexual assault cases in Egypt.*

*'Since 2010/11 consular staff in Cairo have dealt with on average five rapes and 20-25 sexual assaults a year. The problems that arose in Ms M's case have not been*

*apparent in others before or since. So while we recognise there are many lessons to be learned from this case, we do have confidence that, overall, the Cairo consular team is providing high quality support to other customers in similar cases.*

*'We have also been investing more in the supervisory structures for consular staff across our global network since the time of this case. A stronger regional management structure is now in place, with more consular regional operations manager positions created to ensure consistency, high standards and good resource management across our network. We continue to develop more tailored training, focussing on maintaining high standards of customer service in our most complex casework (through a course on Customer Service Delivery) and a series of tailored training offers to consular managers. While there have been no structural changes to the management of the Cairo consular team, those responsible for supervising them will have already, and will continue to benefit from this improved training offer.*

*'The Global Response Centre (GRC) is part of Consular Directorate and is therefore subject to the same drive to improve our services. They receive the same training and guidance as other consular officers and have been given the updated guidance issued in October 2012. In addition, team leaders continue to ensure that all staff (permanent and weekend duty officers) working in the GRC are properly trained and equipped to deal with these most difficult of cases.*

*'Finally, we recognise a more comprehensive review of this case is needed to identify lessons learned and improvements required. We have made a start on this already rather than waiting for your final report to issue, though of course we will take account of any further recommendations made in the final*

*version. In addition to further work in the areas above, this review includes:*

- 'Exploring what further lessons we can learn from this case to ensure consular and GRC staff meet guidance and customer service standards;*
- Considering how to ensure our out of hours service is equipped to meet the assistance and customer service standards we have set;*
- Considering how to improve our consular complaints procedures so that we are more open, and quicker to recognise our failings and their impact on customers.'*







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