

Business Case and Intervention Summary

Intervention Summary

Title: Legal Assistance to prevent displacement and demolitions in the Occupied Palestinian Territories (OPTs).

What support will the UK provide?

£3 million over two years to deliver legal aid to defend the Housing, Land and Property rights of Palestinians in Area C, East Jerusalem and Gaza.

Why is UK support required?

- 1. Demolitions, evictions, forcible relocation and displacement threaten the viability of the two-state solution.** The systematic violation of the Housing, Land and Property rights of Palestinians and consequent population displacement is further reducing Palestinian presence in Area C and East Jerusalem and threatening the viability of a two-state solution. A more stable Palestinian population in these areas that is less vulnerable to demolition and displacements helps to keep the two state solution alive, reduces the need for humanitarian support and prevents the slide into poverty.
- 2. Housing, land and property violations affect livelihood structures, reduce sources of income and lower living standards.** Demolitions also increase dependency on humanitarian assistance and have a range of negative psycho-social impacts, particularly on children. Many Palestinian communities have suffered multiple waves of demolitions.
- 3. Displacement and movement and access restrictions in Gaza are affecting livelihoods and increasing poverty and aid dependency.** Displacement in Gaza is caused by the destruction of property during Israeli air strikes and by lack of access to agricultural land in the buffer zone which means that people cannot maintain their livelihoods and are displaced to the urban centres.
- 4. Justice and Human Rights are being threatened.** During 2012, over 600 Palestinian structures were demolished in Area C and East Jerusalem, including at least 189 homes. 880 Palestinians were displaced as a result of demolitions, more than half of them children. Another 4,102 people were otherwise affected, for example due to demolitions of animal shelters, water cisterns and other structures related to their livelihood or because of the destruction of infrastructure, including roadsⁱ.
- 5. International consensus condemns demolitions.** The European Union's Foreign Affairs Council, in conclusions agreed on 14 May 2012, called on Israel to meet its obligations regarding the living conditions of the Palestinian population in Area C, including by halting forcible transfer of population and demolition of Palestinian housing and infrastructure.

What are the expected results?

Emergency Legal Response:

- 2,370 households in Area C and East Jerusalem will receive legal counselling on various issues relating to their Housing, Land and Property rights.
- 450 Palestinians will receive legal counselling and/or representation following potential Housing, Land and Property violations in the Gaza Access Restricted Area.
- 545 households in Area C and East Jerusalem will receive a temporary suspension of demolition order due to legal representation provided through NRC.

Preventative Legal Response:

- 1,405 people will receive Housing, Land and Property rights training or technical assistance from NRC.
- 35 discriminatory and/or unfair laws, policies or practices will be exposed through public interest cases.

Policy Change Response:

- 130 advocacy briefings will be given on specific Housing, Land and Property issues (verbal or written)

Capacity Building Response:

- The Norwegian Refugee Council (NRC) will deliver technical services, including advice and/or training, to the Palestinian Authority to strengthen its capacity to develop a sustainable legal aid system for Housing, Land and Property law.

Business Case

Strategic Case

A. Context and need for a DFID intervention

1. Resolution of the Israeli/Palestinian conflict is a high priority for the UK Government. DFID supports UK Government objectives for a successful Middle East Peace Process (MEPP) by helping build Palestinian institutions and promoting economic growth, so that a future state will be stable, prosperous, well-run, and an effective partner for peace with Israel. The UK's ultimate goal is the creation of a sovereign, independent, democratic, contiguous and viable Palestinian state living in peace and security side by side with Israel.
2. In the meantime, DFID also addresses poverty and vulnerability. Extensive settlement building and the displacement and the forced relocation of thousands of Palestinians is seriously undermining prospects for a viable two-state solution, as well as generating insecurity and vulnerability for Palestinian communities.

The importance of Area C

3. Following the 1993 Oslo Accords, over 60% of the West Bank was designated as Area C with Israel controlling all aspects of development including planning, building and security. Oslo envisaged full control of Area C passing to the Palestinian Authority (PA) within five years. Twenty years later, Area C is still entirely controlled by Israel and remains largely off-limits for Palestinian use.
4. Area C contains land reserves that are critical for the sustainability of a future Palestinian state. It is the only available space that can be used for the expansion of Palestinian population centres as well as the bulk of Palestinian agricultural and grazing land. Area C is also the only contiguous territorial block in the West Bank, multiple large-scale infrastructure projects including national roads; water and electricity networks pass through itⁱⁱ.
5. The Israeli law governing Palestinian construction in Area C requires a planning scheme to be in place before a permit can be issued for any 'construction' 20 cm above or below ground. Figures from the Israeli Civil Administration show that between 2007-10 there were 1,426 applications for permits submitted by Palestinians in Area C, of which only 64 led to actual permits being issued (around 4.5%). Currently less than 1% of Area C has been zoned for Palestinian construction by the Israeli Civil Administration.
6. Israeli construction in the area known as E1 could complete a ring of settlements (and associated infrastructure) which would cut off access between East Jerusalem and the West Bank, and effectively split the north from the south of the West Bank. Recent indications that Israel may develop this area are seriously concerning and prompted the UK Foreign Secretary to state "If implemented, these plans would alter the situation on the ground on a scale that makes the two-state solution, with Jerusalem as a shared capital, increasingly difficult to achieve (...) They would undermine Israel's international reputation and create doubts about its stated commitment to achieving peace with the Palestinians."
7. Israeli restrictions on Palestinians living in Area C dramatically affect access to water and land; there are high levels of food insecurity and loss of livelihoods. Many have limited access to education and healthcare, with access restrictions severely restricting the ability of the PA to provide services.

Settlement expansion

8. Since 1967, Israel has established about 250 settlements (residential and others) in the West Bank and East Jerusalemⁱⁱⁱ. The UK considers settlements to be illegal under International Humanitarian Law and strongly opposes their construction, which has a corrosive impact on the peace process and makes a two state solution harder to achieve. In addition approximately 100 “outposts” have been erected by settlers which are illegal also under Israeli law but nonetheless can receive state supplied services such as water and electricity. There are approximately twice the numbers of settlers (300,000) as there are Palestinians (150,000) living in Area C.
9. Over 60% of the Palestinian-owned structures demolished in 2011 were located in areas close to settlements.
10. The total settler population is estimated at approximately 500,000; its rate of growth during the past decade stood at a yearly average of 5.3% (excluding East Jerusalem), compared to 1.8% by the Israeli population as a whole^{iv}.

The vulnerability of East Jerusalem^v

11. UK policy is that Jerusalem is a permanent status issue to be negotiated between the parties^{vi}. East Jerusalem (70.5 km²) was annexed, against International law, by Israel in 1967.
12. Israel maintains full control over East Jerusalem, and rejects the applicability of international law there. Israeli policies in East Jerusalem (e.g. settlements construction, the building of the barrier, revocation of residency rights) are changing its status and separating it and its population from the rest of the West Bank.
13. As in Area C, Israel has failed to provide adequate zoning and planning. 35% of land in East Jerusalem has been confiscated for Israeli Settlement use. Only 13% is zoned for Palestinian construction, much of which is already built up^{vii}.
14. At least 33% of all Palestinian homes in East Jerusalem lack Israeli-issued building permits, potentially placing at least 93,100 residents at risk of displacement^{viii}. Building permits are very rarely conceded to Palestinians in East Jerusalem.

Gaza: from crisis to crisis

15. Gaza remains subject to a highly restrictive access regime. This severely hinders economic growth, slows reconstruction (including of homes damaged as a result of conflict) and affects access to livelihoods (farmers have limited access to land in the buffer zone near the Israeli border, and fishermen can only fish within a few miles of the coast).
16. As a result of these movement and access restrictions, recurring armed conflict and an overcrowded environment, around 80% of Gazan households are dependent on aid to meet their basic needs.
17. According to a recent study ‘The enforcement and expansion of restricted access measures have exposed residents of these areas to serious threats to their physical safety, led to the repeated destruction of greenhouses, orchards, fields and homes, devastated local livelihoods and forcibly displaced entire families. OCHA estimates that approximately 113,000 people, or 7.5% of Gaza’s total population, are affected by the ‘Access Restricted Area’^{ix}.
18. The escalation of violence between Israel and Hamas from 18 – 23 November 2012 once again

highlighted and exacerbated the extreme vulnerability of the population of Gaza. Some 158 Gazans were killed, more than 11,000 were temporarily displaced and some 298 homes were severely damaged in Israeli air strikes^x.

NEED FOR INTERVENTION

19. Forced evictions, demolitions and displacement continued in 2012 in Area C and East Jerusalem at a rate similar to 2011 (2011 saw a marked increase, compared to previous years). In total, over 600 Palestinian structures were demolished, including at least 189 residential structures. 880 Palestinians, more than half of them (468) children were displaced as a result of these demolitions. Another 4,102 people were otherwise affected, for example due to demolitions of animal shelters, water cisterns and other structures related to their livelihood or because of the destruction of infrastructure, including roads^{xi}.
20. Displacement and movement and access restrictions in Gaza are affecting livelihoods and increasing poverty and aid dependency. Displacement in Gaza exacerbates the poor living conditions of the population, 70% of whom are refugees from other areas and 80% of whom are already dependent on international aid. NRC's work in Gaza focuses on supporting Palestinian refugees to prove ownership rights, such proof being necessary to enforce housing, land and property rights including seeking redress for destruction of property and facilitating access to agricultural land in the buffer zone.
21. There are two key reasons why intervention is needed, both of which should be seen alongside the continuing diplomatic push to halt illegal settlement expansion:
 - a. **Demolitions, evictions, forced relocation and displacement violate fundamental human rights, increase insecurity, affect livelihood structures, reduce sources of income and lower living standards.** Housing Land and Property (HLP) violations also increase dependency on humanitarian assistance and have a range of negative psycho-social impacts, particularly on children.
 - b. **Demolitions, evictions, forced relocation and displacement threaten the viability of the two-state solution.** Population displacement threatens to further reduce Palestinian presence in Area C and East Jerusalem threatening the viability of a two-state solution. A more stable Palestinian population in these areas that is less vulnerable to demolition and displacements is necessary to keep the two state solution alive, reduces the need for humanitarian support and prevents the slide into poverty.
22. Lack of political progress in the peace process has meant that Israel continues to implement a discriminatory and illegal planning regime in Area C and East Jerusalem.
23. Under International Humanitarian Law (IHL), Israel, as the occupying power, is permitted to implement a planning regime in Area C and East Jerusalem, but this regime must be for the benefit of the Palestinian population. A planning regime that discriminates against Palestinians, is excessively restrictive^{xii} and does not allow for natural population growth contravenes IHL.
24. Palestinians in Area C are governed not by Israeli domestic law but by a combination of Ottoman, British and Jordanian law amended by more than 1,600 Israeli military orders. However, given the lack of Palestinian sovereignty over Area C, the only real means of redress for Palestinians is the Israeli military legal system. This causes serious inequalities in the application and effects of the law.
25. There are a number of measures which impact Palestinian access to and/or ownership of property. These include denial of land registration for Palestinians, declarations of 'state land' and 'closed military zones', requisition/land seizure orders for the expropriation of property, and construction of

the separation barrier^{xiii}.

26. The legal system in East Jerusalem is distinct to that in Area C, but equally complex. There is a political and institutional vacuum of Palestinian authorities in East Jerusalem that has had a severe impact on the provision of legal aid services for Palestinians living there.
27. In this context, legal cases often take years and the costs are very high. Consequently Palestinians have very little access to justice and, for many, accessing legal aid is the only way that they can defend their housing, land and property rights.
28. Therefore this business case seeks to address the need to improve access to justice by providing free legal counseling and representation for Palestinians facing HLP violations in East Jerusalem, Area C and Gaza.
29. Effective legal action can result in the temporary suspension of demolition orders, evictions and forcible transfers. While this is rarely a permanent solution, it at least buys time for vulnerable families to stay where they are, maintain their livelihoods and continue to defend their rights through the courts.
30. Legal aid in itself is not sufficient to prevent all housing, land and property rights violations since, as outlined above, the policies that lead to these violations are fundamentally at fault. However there is good evidence that without legal aid the number of demolitions would be even higher and the Palestinian population in Area C and East Jerusalem would decrease even more rapidly. For example, in 2012 legal aid provided through the Norwegian Refugee Council (NRC) resulted in the temporary suspension of 104 demolition orders in 2011.
31. To increase impact, legal aid should be combined with an advocacy strategy that is informed by legal expertise and live case evidence and that can effectively harness international pressure for policy change.
32. The PA outlined its strategy on Area C in its September 2012 report to the Ad Hoc Liaison Committee. The report calls for a number of actions by the Government of Israel and the international community to prevent displacement. These include support to register land, support to legal procedures to prevent demolitions, and challenging demolitions on basis on international law. The Displacement Working Group (led by UN OCHA), has identified support to legal procedures to prevent displacement as the top priority.

Why the UK?

33. The UK is engaged in a number of high level policy fora including the EU Foreign Affairs Committee (FAC), the Ad Hoc Liaison Committee (AHLIC) and various local working groups. An intervention in this area allows DFID and the FCO to continue this role and to push for greater political leverage based on solid expertise and evidence from the field.
34. An intervention fits strategically with DFID's high level objectives as per the revised 2012 Operational Plan including: 'Strengthen governance and security in fragile and conflict-affected countries and make UK humanitarian response more effective' and to 'Improve the coherence and performance of British international development policy in fragile and conflict-affected countries'.
35. An intervention will also complement and strengthens the UK's other programme work in Area C including:
 - a. DFID support to the United Nations Relief and Works Agency (UNRWA) to provide essential services to refugees, including those living in Area C.
 - b. DFID support to the International Committee of the Red Cross (ICRC): The UK provides

core financial support to the ICRC, which has provided assistance to communities affected by demolitions and displacement in the West Bank including Area C and East Jerusalem. The UK also provided a £1.5 million contribution to ICRC following the escalation of violence in Gaza in November 2012.

- c. DFID support to the Humanitarian Response Fund (HRF): In 2009/10, we provided £1 million to provide emergency support to Palestinians whose homes have been demolished, some of these have been in Area C.
- d. DFID support for the Community Resilience & Development Programme (CRDP) for Area C and East Jerusalem aims to improve public and social infrastructure, enhance economic opportunities through support to livelihoods, improve access to and protection of natural resources and uphold the rights of Palestinian citizens through legal protection, advocacy and community participation and mobilization
- e. DFID is considering further programmes of support to provide humanitarian aid in Area C and to develop masterplans for Palestinian communities.

36. The Gaza element of this intervention will feed into DFID's developing work on Movement and Access restrictions which aims to take advantage of opportunities for change in this area presented in the context of the recent (November 2012) ceasefire between Hamas and Israel.

B. Impact and Outcome that we expect to achieve

37. The Impact of this programme will be reduced poverty and vulnerability of Palestinians in the OPTs.

38. The Outcome of the project will be that Palestinians at risk of displacement within the OPTs are better able to uphold their housing land and property rights through provision of legal aid services and increased access to justice.

39. See logframe for full details.

Appraisal Case

A. What are the feasible options that address the need set out in the Strategic case?

1. The feasible options for delivering this programme are:

- (i). Fund the Norwegian Refugee Council's Information, Counselling and Legal Assistance Programme ('All NRC Option')
- (ii). Commercial tender for legal services ('Commercial-NRC Option')
- (iii). Counterfactual 'do nothing'

(i) Fund the Norwegian Refugee Council's Information, Counselling and Legal Assistance Programme ('All NRC Option')

- 2. DFID would provide funding of £3m for two years to the Norwegian Refugee Council's (NRC) Information, Counselling and Legal Assistance (ICLA) programme.
- 3. Currently represented in some 20 countries worldwide, NRC has been working in the OPTs since 2006. The ICLA program was established in 2009 with funding from ECHO. DFID has funded the ICLA program in the OPTs from the end of 2010 to end March 2013 providing £3m, approximately 35% of their overall budget.
- 4. Over this period, DFID funding has allowed NRC to prevent 348 house demolitions in Area C and East Jerusalem and 7,309 households received legal aid through NRC.
- 5. ICLA's main objective is to **prevent forced displacement** by providing legal information, and counselling, and/or assistance to people who have **already been displaced** or are **at risk of displacement**. ICLA is one of NRC's five core areas of work. The other core areas are education, camp management, shelter (building of homes and schools) and emergency food security and distribution.
- 6. A Legal Coverage survey conducted by NRC indicates that 52% of persons suffering HLP violations in Area C and the West Bank are represented legally. Of those, data suggests that NRC cover about 35% of cases (through private lawyers and support to legal aid NGOs), the PA cover 31% (through private lawyers) and 34% are covered through private lawyers or other NGOs not funded by NRC.

7. ICLA OPT funding:

Donor	2011	2012	2013
DFID	£ 1,294,132.80	£ 1,454,050.57	£ 1,500,000.00
EC		£ 257,766.70	£ 606,100.07
ECHO	£ 1,306,250.00	£ 1,371,783.44	£ 1,190,948.03
French	£ 45,144.89	£ 25,080.00	£ 36,036.00
MFA	£ 1,102,530.00	£ 701,581.60	£ 1,102,530.00
SIDA	£ 87,011.10	£ 186,890.00	£ 374,000.00
UNDP			£ 165,000.00
TOTAL	£ 3,835,068.79	£ 3,997,152.30	£ 4,974,614.10

Donor funding share	2011	2012	2013

			(estimated)
DFID	34%	36%	30%
EC		6%	12%
ECHO	34%	34%	26%
French	1%	1%	1%
MFA	29%	18%	19%
SIDA	2%	5%	8%
UNDP			4%

8. Together with the above other sources of funding, DFID's support would enable the ICLA to provide the following Outputs and Outcomes in 2013 and 2014:

9. Outputs:

- Output 1: provision of emergency legal counseling to Palestinians at risk of displacement in Area C, East Jerusalem and Gaza (Emergency legal response)
- Output 2: delivery of a longer term legal strategy that helps to prevent demolitions and displacement (Preventative legal response)
- Output 3: influencing policy change on housing, land and property (HLP) violations through advocacy (Policy change response).
- Output 4: capacity of PA institutions built to prevent displacements in Area C, East Jerusalem and Gaza (capacity building response)

10. Outcome:

- Palestinians at risk of displacement within the OPTs are better able to uphold their housing land and property rights through provision of legal aid services and increased access to justice.

11. In order to prevent displacements in the complex legal and political environment of the OPTs an integrated approach is needed that combines legal aid, awareness-raising/capacity building and advocacy (both local and international). A long-term strategy of transferring responsibilities to the Palestinian institutions is also important. The Theory of Change therefore contains an output for each of these elements:

Output 1: Emergency legal response

12. NRC will provide legal aid to communities at risk of demolition and displacement and provide a rapid response facility in cases of emergency. This work will be coordinated with the Legal Task Force (a forum that brings together Palestinian, Israeli and International Legal Aid Lawyers on a monthly basis to share legal information and co-ordinate legal assistance, research and court monitoring), relevant countries and UN agencies.

13. In Gaza, NRC will monitor incidents occurring in the Access Restricted Areas in Gaza and provide a rapid response. NRC will also provide legal rights centres in Gaza and legal representation for farmers and fishermen to gain access to Access Restricted Areas, petitioning the Israeli military for access in individual cases.

14. By providing an Emergency Legal Response, NRC will ensure that Palestinians at risk of displacement have access to free legal aid and thereby increase their access to justice. This will enable them to better uphold their housing, land and property rights.

Assumptions and evidence:

15. **Assumptions** are that NRC will continue to be able to carry out its legal aid work. This will, in part, depend on the political environment beyond NRC's control. NRC takes careful steps, including through a low visibility policy, to ensure that their legal status to carry out their work is not threatened.

16. Evidence of impact: In 2012, ECHO funded an impact study of ICLA's work^{xiv}. The study effectively shows that the ICLA programme is able to delay demolitions and ensuing displacement through legal means. While the delays were almost always seen as temporary – NRC estimates that up to 10 years is the maximum delay they can expect – the impact of the delay was described as extremely important for the following reasons:

- People are able to remain in their homes and can continue to engage in planning for their properties and land.
- Beneficiaries are given hope and inspiration to continue claiming their rights in a highly challenging environment.
- It also alleviates the psychologically devastating impact a house demolition has on families, and especially children.

Output 2: Preventative legal response

17. NRC will provide a preventative legal response by training communities, legal practitioners and local NGOs on housing, land and property (HLP) issues. They will support planning procedures for Palestinian communities and assist beneficiaries to obtain documentation, proof of ownership and residency. In Gaza, NRC's preventative legal response will consist of training key stakeholders in the Gaza informal justice mechanisms on HLP issues, engaging with university students through legal clinics in order to build skills and increase interest in HLP issues in the OPTs.

18. This preventative legal response will lead to increased legal capacity to respond to HLP concerns and communities that are more aware of the risks and services available. This will in turn increase beneficiaries' access to justice and allow them to have improved security of tenure. Palestinians at risk of displacement will thus be better able to uphold their housing, land and property rights.

Assumptions and evidence:

19. Assumptions: (as for output 1 above).

20. Evidence of impact: The key area of recommendations from the ECHO-led ICLA impact study centred on the need to go beyond legal assistance and representation in order to have any longer or broader impact in addressing HLP rights in the OPTs. This was seen as a particular challenge given the complex and discriminatory legal system that Palestinians in Area C and East Jerusalem are faced with.

21. Recommendations for strengthening NRC's holistic strategic approach included:

- Developing and disseminating its theory of change,
- Cooperating and coordinating more effectively with the PA,
- Ensuring information and counselling always accompany legal aid
- Strategically broadening its partnership base
- Better integrating its advocacy work
- More coordination through the Legal Task Force
- More systematic systems of field monitoring.

22. In response to these recommendations the ICLA programme has already implemented a series of changes to its structures and is reviewing several of its processes^{xv}.

Output 3: Policy change response

23. NRC's policy change work will consist of research and advocacy on the violations of international law by Israel including through engagement with the diplomatic community and use of international justice mechanisms. NRC will also take on public interest cases that highlight discriminatory laws and

practices and will carry out related advocacy on these cases. In line with NRC's low visibility/high impact policy most advocacy is carried out through local partners and by providing information and policy recommendations to UN agencies and the diplomatic community including the UK.

24. NRC's research and advocacy work will provide evidence and analysis to form the basis for international pressure on Israel which, in turn, increases the possibility of policy change. NRC hopes to obtain legal precedents in public interest cases that will likewise increase the pressure to change policy and practice. Increased public awareness, international pressure for policy change and legal precedents will mean that Palestinians are better able to uphold their housing, land and property rights. In line with ongoing DFID and FCO work, the UK government is seen as a key partner in pushing for changes in Israeli policy and practice in this area.

Assumptions and evidence:

25. Assumptions: That the UK and other governments will continue to play a key role in pressuring their Israeli counterparts to respect and promote the housing, land and property rights of Palestinians in Area C, East Jerusalem and Gaza.

26. Evidence: There is circumstantial evidence that international pressure has had a positive effect on preventing demolitions and displacement. We will seek to monitor this and to develop better measurement tools during the course of the project.

Output 4: PA capacity building

27. This output addresses the issue of sustainability, an issue raised in the ECHO-funded impact study. By supporting the PA to improve the capacity of the PA to deliver legal aid in cases of housing, land and property rights, the All NRC option would effectively build sustainability over the medium and long-term.

28. We recognise that the PA has a severe financial deficit and needs to balance a number of competing priorities. It would not be appropriate for the UK to impose this priority in these circumstances. Therefore this output will be developed flexibly and in consultation with the PA to take account of these issues.

29. NRC will initiate an in-depth consultation with the PA and other stakeholders on how best to strengthen the capacity of the PA to provide legal aid services for housing, land and property cases.

30. By identifying specific capacity building priorities, NRC will help increase the PA's ability to deliver effective legal aid services in cases of demolitions and displacement. This, in turn, will mean that more Palestinians are better able to uphold their housing, land and property rights.

Assumptions and evidence:

31. Assumptions: That the PA will continue to have the political will necessary to increase its capacity to provide legal aid services.

32. Evidence: There is currently a draft legal aid law under discussion by the PA and partners. However the draft law does not cover housing, land and property issues. NRC is currently in close contact with the PA, meeting every two weeks to ensure good coordination of legal aid services. NRC is also currently providing legal training on housing, land and property issues to PA civil servants.

(ii) Commercial tender for legal services ('Commercial-NRC Option')

33. The Outputs and Outcomes are the same as for the All NRC Option. However, instead of funding NRC to deliver Output 1, DFID contracts with a commercial legal firm at a cost of £863,000 to deliver the legal counseling for two years. £2,137,000 for two years would be provided to NRC to deliver Outputs 2, 3 and 4.

Theory of Change

34. This is essentially the same as for the All NRC Option, but is based on the following assumptions:
- a) Use of private sector legal aid delivers similar or better value for money for Output 1, as outlined above.
 - b) A commercial law firm would not have the expertise or willingness to deliver Outputs 2, 3 and 4.

(iii) The Counterfactual 'Do nothing'

35. NRC's Information, Counselling and Legal Aid Programme (ICLA) is the single biggest provider of legal aid in cases of housing, land and property rights in Area C and the rest of the West Bank^{xvi}. DFID is currently the largest donor to ICLA and funds the majority of the legal aid work.
36. If the UK was not to fund the ICLA programme, some 3,700 Palestinians would not benefit from legal aid, increasing their vulnerability.
37. DFID currently funds approximately 33% of ICLA's work. Therefore the absence of DFID support to ICLA would significantly reduce the access to justice of vulnerable Palestinian communities who would then be at increased risk of demolitions and displacement. While some individuals or communities may find the money to pay legal fees, many would not be able to. Given the context of poverty and marginalisation, family spending on food, health and education would probably reduce if people have to use scarce funds on legal fees.
38. Lack of legal representation would in turn lead to an increase in the number of people displaced or having their homes demolished with all the negative consequences that this would entail including increased poverty, increased reliance on aid, reduced access to health and education services and negative psychosocial effects.
39. Some people may receive legal aid from other providers. However given the increasing number of demolition and eviction orders against Palestinians, the current unfeasibility of the PA significantly increasing its legal aid services (see below at paragraph 45) and the key role being played by NRC at present it is inevitable that many people would lose their legal representation.
40. If the UK was not to renew its funding of NRC's ICLA programme but other donors continued to provide funds at the current level, there would be several direct and indirect consequences. The UK currently funds approximately one third of ICLA's overall work and some elements (including demolition work in strategically important areas) are funded exclusively by the UK. Financial limitations mean that other donors would be unlikely to be able to increase contributions if the UK discontinued support.
41. In particular, the UK's integrated approach allows funds are used for NRC's work supporting Housing, Land and Property rights in Gaza, its work in East Jerusalem and its support for planning initiatives in Area C. In the absence of UK funding, this strategically important work would most likely be discontinued.
42. NRC provides much useful, well-researched and evidence-based information to the UK government (as a key funder and supporter) and the working relationship is close and mutually beneficial. This supports the UK government to take political action with Israeli and Palestinian counterparts in specific

cases of concern and on overall issues, which is complemented by NRC's advocacy work.

43. Without DFID funding, ICLA's capacity to take on public interest cases would be greatly reduced and the strategy of using such cases to highlight key issues of concern and increase international pressure on Israel would be less effective.

Other options considered:

44. The following option was considered but not subjected to a full appraisal for the reasons detailed.

Fund the PA's legal aid scheme

45. The substantive outputs and outcome are essentially the same as option 2. However, transfer of programme activities from NRC to the PA occurs during the project, so that by the last year of the project the legal aid output is being delivered entirely by the PA and a significant amount of the project funding is passing through the PA. This option would require a significant institutional capacity building stream of work.
46. This option of funding the PA legal aid scheme is not considered feasible and will not be appraised for the following reasons:
47. The PA's legal aid services currently take on approximately 31% of all the represented cases on housing, land and property rights in the West Bank^{xvii}. NRC covers 35%. The PA has not expressed a desire to take on the management of funds for this work. For the PA to more than double the amount of legal aid cases that it represents there would need to be a political decision taken and considerable political will to prioritise this area of work. Given the PA's current fiscal crisis other basic services are being prioritized.
48. A recent study of the PA's legal aid services^{xviii} indicated that considerable institutional development would be required in order for the PA to take on a major increase in legal aid work. It is not considered feasible for this development to take place within the two-year funding period.
49. The PA would be required to take on not only the provision of its own legal aid services, but would also be expected to channel funds to the NGOs who take on the majority of cases of home demolitions. While the PA is currently in the process of developing strategy and mechanisms in this area, it does not currently have adequate systems in place to ensure coordination of donor money and good use of funds.

B. Assessing the strength of the evidence base for each feasible option including delivery routes

50. In the table below the quality of evidence for each option is rated as either Very Strong, Strong, Medium, Limited (or No Evidence)

Option	Evidence rating
<i>NRC only option</i>	<i>Strong</i>
<i>Commercial – NRC option</i>	<i>Medium</i>

51. Note: for the commercial option private lawyers have represented demolitions and displacement cases and so the evidence for this element is strong, but there is no evidence base about the ability of private lawyers to address the wider policy, advocacy and capacity building elements of this project. Overall our assessment is that the evidence for this option is therefore medium.

C. For each feasible option, what is the assessment of local capacity? Is the intervention likely to strengthen capacity in a durable manner?

NRC only option:

52. In the vast majority of cases NRC funds local lawyers and NGOs to carry out legal counselling and represent cases in court. Other activities within the ICLA programme are also aimed at building local capacity such as trainings for lawyers, community leaders and the PA on HLP issues. The preventative legal response and capacity building response (outputs 2 and 4) which focus on building capacity are integral parts of NRC’s overall strategy to prevent demolitions and displacement.

Commercial-NRC option:

53. In funding a local law firm to take on the cases of legal representation, local capacity would also be strengthened. This option however lacks the integrated approach of working with and through local NGOs, identifying training needs and feeding detailed case knowledge into advocacy efforts.

D. What is the likely impact (positive and negative) on climate change and environment for each feasible option?

54. Climate change and environmental degradation can have serious consequences for displaced and dispossessed people, and displacement of people from planned to unplanned settlements can create additional pressures on natural resources. For example disruption to water services can affect human health, and relocation of people to already water-stressed areas can increase localised tensions and risks of disease as well as conflict. Risk of flooding and flood damage can increase in unplanned or poorly planned settlements. But there are also opportunities for improving environment and climate management through the provision of support to displaced people, for example by using fuel-efficient stoves in refugee camps, or planting trees in resettlement areas to reduce the risk of flooding and improve water quality.

55. However this project focuses on legal aid provision for people facing evictions and demolitions, it does not consider the wider implications of settlement planning and displacement of people. Providing legal assistance to people affected by evictions, demolitions and displacement could however, play an important role in stemming illegal and unplanned activities, and thereby reducing the potential impact on the environment and climate. This programme is therefore considered as category C – low risk of climate or environmental impact and low opportunity for considering climate or environmental management.

56. [Categorise as A, high potential risk / opportunity; B, medium / manageable potential risk / opportunity; C, low / no risk / opportunity; or D, core contribution to a multilateral organisation.]

Option	Climate change and environment risks and impacts, Category (A, B, C, D)	Climate change and environment opportunities, Category (A, B, C, D)
1 Support to NRC	C	B
2 Commercial contract	C	B
3 Do nothing	B	C

57. The preferred option of funding the Norwegian Refugee Council would have a strongly positive environment and climate outcome. The NRC seeks to integrate climate change and environmental considerations and measures in all NRC core activities, i.e. Shelter, Camp Management, Emergency Food Security and Distribution, Education and ICLA (Information, Counselling and Legal Assistance). A broad approach to adaptation, including resilience building, can reduce the impact and risk of displacement. NRC believes adaptation, disaster risk reduction and humanitarian response are and must be closely linked elements. As no information on recent environmental management activities is

given in the NRC Annual Report, DFID could consider asking NRC for a short update on the implementation of its stated principles.

58. It is not possible to consider in detail at this stage the environmental performance of this programme if it were competitively tendered, as the implementing partner is not known. However on the assumption that similar outputs would be provided, we can assume that the impact would be similar.
59. If no support were given by DFID, then it is possible that evictions, demolitions and displacements would continue unchecked, and there could potentially be greater, negative impacts on the environment and climate.

E. If any, what are the likely major impacts on social development?

60. Demolitions, particularly those that lead to displacement, force already vulnerable communities into deeper poverty and exclusion. Livelihoods are lost, children miss out on their education and much extra expense is incurred through rebuilding properties or having to pay rent.
61. The Negev Bedouin in Area C are particularly vulnerable herding communities who have already been displaced from the land they owned in the Negev (Israel). Israeli authorities control much of the water resources and pastoral and agricultural land in Area C that is crucial to the herder's nomadic way of life. Settlements divide and block traditional herding routes isolating from them from livelihoods and the markets in East Jerusalem. The impact of these changes to the herding way of live are captured in a joint UNRWA, WFP and UNICEF report which found that 79% of herding communities (Bedouin and non-Bedouin) in the West Bank are food insecure and that 28% of children suffered from stunted growth and 12% were malnourished^{xix}.
62. Demolitions, particularly home demolitions, can have a devastating psychosocial impact on families including women and children. Approximately half of those affected by demolitions in 2012 were children. Studies^{xx} have shown that children who have been displaced or whose home has been demolished suffer in many ways including increased aggression, separation anxiety, difficulty sleeping, nightmares and a significant drop in performance at school.
63. The provision of legal aid to vulnerable individuals and communities can also have an empowering impact. As people begin to be able to understand and defend their rights so they are able to regain some control over their own lives. In some cases, communities have organised themselves in order to defend their rights, reinforcing their mutual support networks and social cohesion^{xxi}.
64. The impact on gender of demolitions and their prevention has not yet been sufficiently analysed and needs to be better understood. Case study based reports highlight the particular psycho social impact of demolitions on women, and the consequential impact on their children. We also recognise that women face particular barriers to accessing the legal and planning systems.

F. For fragile and conflict affected countries, what are the likely major impacts on conflict and fragility, if any?

65. Demolitions and displacement violate fundamental human rights. They also undermine the conditions necessary on the ground for reaching a negotiated just and viable two-state solution, in line with UK policy and this intervention supports the prospects for negotiations that will deliver peace and security. It also addresses one of the major impacts of the conflict and Israel's Occupation in terms of the insecurity of the Palestinian population. Individual cases of evictions and demolitions have frequently generated tensions, and risk creating flashpoints that could spark or contribute to wider protests and violence. The general picture of increasing demolitions and failure to be able to prevent them through non-violent means, risks adding to the wider sense of frustration with the political and non-violent strategy to resolve the conflict pursued by the PLO and PA. Therefore, whilst difficult to measure, by

preventing demolitions and evictions this intervention can also contribute to reducing the triggers for violence.

G. What are the costs and benefits of each feasible option? Identify the preferred option.

Options and Counterfactual

- 66.** The appraisal is of DFID's use of the All NRC Option and the Commercial-NRC Option compared to the Do Nothing Option. This is in order to answer the two questions of: a) which of the two funding options is likely to provide the highest value for money, and b) whether the preferred funding option provides value for money compared to the Do Nothing Option.
- 67.** Given that the NRC receive unearmarked funding from a number of donors, and so particular results cannot be attributed to particular donors, it makes most sense to compare the NRC's work as a whole with the alternative of all work being contracted through a law firm.

Incremental costs

- 68.** The two funding options will incur the following incremental costs:

a). Direct costs

Costs to donor of each funding option compared to the counterfactual are as follows:

All NRC Option

- 69. *Financial contribution:*** £4.97m per year from donors for the years 2013 and 2014, of which £3.0m (30%) is from DFID. 7% of the total will be administrative costs. NRC's administrative costs are set centrally in Oslo. DFID will continue to work with NRC centrally to drive down these costs by encouraging NRC to pursue increased unearmarked funding as recommended in the due diligence assessment carried out in 2011^{xxii}. If the percentage of administrative costs covered by DFID funding can be reduced during the course of this grant, the accountable grant agreement will be amended as necessary.
- 70. *Staff time:*** For DFID 5% of an adviser, 5% of the Poverty and Vulnerability team leader, and 20% of a project officer in Jerusalem. It is assumed that the staff costs of the other two major donors who provide similar amounts to DFID (EU and Norway) are the same as this. Total donor staff costs each year are therefore £80,000.

Commercial-NRC Option

- 71. *Financial contribution:*** We may assume that the same amount as for the All NRC Option is provided by donors for the year 2013-14, of which 30% is from DFID. It is not possible to estimate administrative costs for this option but they may be slightly lower as the commercial firms will focus on legal aid only and not the wider policy and influencing work.
- 72. *Staff time:*** The law firm will need greater oversight from donors and so staff time will be higher. We may assume that the higher donor costs will be roughly equivalent to the savings on administrative costs.

b). Indirect costs

We do not consider that any significant costs will be borne by other agents as a result of the project.

- 73.** Comparing the costs of both options, we may assume that they will be similar, with the higher administrative costs of the All NRC Option offset by the higher donor staff costs of the Commercial-

NRC Option. There is therefore no difference between them in terms of the costs of their inputs.

Table: Incremental Costs (All-NRC Option)

Types of cost	Total	2013	2014
Donor financial contribution	9,949,228	4,974,614	4,974,614
<i>of which DFID</i>	<i>3,000,000</i>	<i>1,500,000</i>	<i>1,500,000</i>
Donor staff costs	240,000	120,000	120,000
<i>of which DFID</i>	<i>80,000</i>	<i>40,000</i>	<i>40,000</i>
Total costs	10,189,228	5,094,614	5,094,614
<i>of which DFID</i>	<i>3,080,000</i>	<i>1,540,000</i>	<i>1,540,000</i>

Incremental benefits

74. The incremental benefits common to both funding options compared to the Do Nothing Option are explained in detail below and summarised in Table 2. Potential differences between the options in terms of their likely effectiveness in delivering the benefits are then discussed.

Table: Summary of Benefits

Stage 1: Description	Stage 2: Quantification	Stage 3: Monetary value
1. Improved household living standards: Palestinian households in Area C and East Jerusalem will have higher living standards from delaying displacements and their harmful economic impact.	Displacements will be prevented for 95 households a year attributable to the NRC, 70% of which are in Area C and 30% in East Jerusalem.	£7.98m in costs to households prevented.
2. Improved psycho-social wellbeing: Palestinian households in Area C and East Jerusalem will have improved psycho-social wellbeing from delaying demolitions and displacements and their harmful psycho-social impact.		Not possible to monetise.
3. Saving of funds for compensation: Palestinian NGOs and international organisations will save money in not having to provide compensation for the displaced.		£51,531 saved per year.
4. Reduced threat to the viability of a two state solution: Palestinian presence in Area C and East Jerusalem will be better maintained, sustaining prospects for a viable, contiguous Palestinian state.	Not possible to quantify.	Not possible to monetise.
5. Community empowerment: stronger organisation of communities to defend their interests.	Currently not possible to quantify, but we will work with NRC during project inception to identify appropriate indicators.	Not possible to monetise.

Improved household incomes

75. Palestinian households in Area C and East Jerusalem will have higher living standards from delaying

displacements and their harmful economic impact. Initial findings of survey work funded by NRC suggests that the average total financial cost to households of being displaced is \$126,000 in East Jerusalem and \$138,000 in Area C (£84,000 on average across both). These costs include; costs of moving home, fines paid, rental of new premises, building of new home, and transport costs. With 95 displacements prevented per year (70% from Area C and 30% from East Jerusalem), this comes to a total financial cost to households averted each year of £7.98m. This is an overestimate in that it assumes that the displacement is permanently prevented, but illustrates the size of the potential benefits.

Improved psycho-social wellbeing

76. See Section E above on impacts to social development.

Saving of funds for compensation

77. Palestinian NGOs and international organisations will save money in not having to provide compensation for the displaced. Initial findings of the survey work funded by NRC suggests that 26% of households in East Jerusalem received compensation averaging \$3,369, and 20% of households in Area C received compensation averaging \$4,393. The average compensation per displaced household is therefore \$842 for East Jerusalem and \$879 for Area C (£542 on average across both.^{xxiii} If 95 displacements are being prevented each year due to the project, this translates into a total saving of £51,531 per year. Again this is an overestimate since it assumes that the displacement is permanently prevented.

Reduced threat to the viability of a two state solution

78. Palestinian presence in Area C and East Jerusalem will be better maintained, sustaining prospects for a viable, contiguous Palestinian state.

Comparison of effectiveness of options in delivering the benefits

79. We may compare the effectiveness of the three funding options according to the following criteria:

Efficiency of legal aid

80. This refers to the cost of contracting lawyers of the required quality. There are three conditions to maximise efficiency:^{xxiv}

81. **Mix of private and NGO lawyers:** private lawyers are generally more expensive than NGO lawyers. However, they have a high level of legal expertise which can make the difference in complex cases. It is therefore most efficient to use NGO lawyers for straightforward cases and private lawyers for more complex cases.

82. **Appropriate fee rates:** legal aid services are generally provided at a reduced rate by lawyers as part of a social justice ethic, as well as on account of limited government budgets. However, a fee scale set too low may act as a disincentive for lawyers to participate in the system and compromise the quality of legal representation^{xxv}.

83. **Effective oversight:** even with a lawyer of high expertise, there is a need for oversight to ensure quality of work. Given the complexity of the legal and political context in the OPTs there is also a need for strategic oversight to ensure that the emergency legal aid response effectively complements the preventative and policy change work.

84. Applying these conditions to the options:

- **Commercial-NRC Option:** since only private lawyers would be used, it would be too expensive. It is also unclear how oversight would be provided since DFID lacks the requisite expertise.

- **All NRC Option:** may be seen to meet all three conditions. They contract with a mix of private and NGO lawyers. Although they used to pay high fees which distorted the market, following an in-depth study they have identified a fee structure that can deliver value for money. And they have in-house staff with the expertise to provide effective oversight.

85. The All NRC Option therefore comes out best.

Effectiveness of advocacy

86. The All NRC Option includes an integrated strategic approach whereby the legal aid provided feeds into and is informed by the preventative legal work and policy change work. This creates a stronger basis for credible, evidence-based research and advocacy. The Commercial-NRC Option lacks this linkage since the legal aid work would be provided by a separate entity and would not be fully integrated into NRC's preventative, policy change and capacity building work. The All NRC Option would therefore provide more effective advocacy which would be more likely to result in changes in policy and/or practice.

Risks

87. In terms of the delivery of legal aid services there is no substantial difference in risks between the two options, separate from concerns over the efficiency and effectiveness of the Commercial-NRC Option given above. However, from providing an integrated package of services, we would expect the NRC to be better able to identify and manage the risks outlined in the risk matrix of the Management Case.

88. The All NRC Option therefore scores best in terms of all three criteria of Efficiency of legal aid, Effectiveness of advocacy, and Risks. There is therefore a strong case that it will be more effective in delivering the benefits.

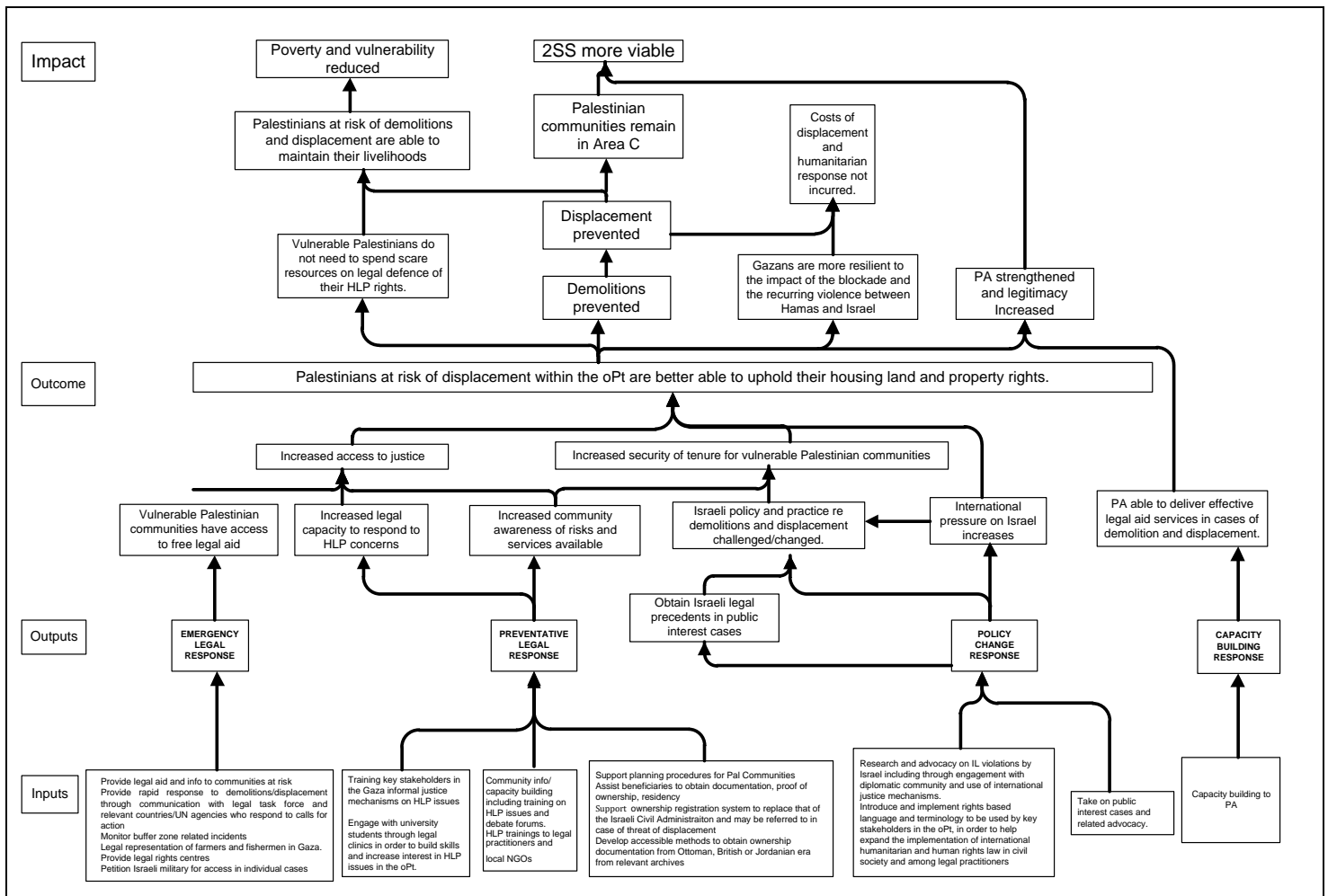
Comparison of costs and benefits

89. Since the two funding options have the same costs, but the All NRC Option is likely to be more effective in delivering the benefits, the All NRC Option will provide greater value for money and so is the preferred funding option.

90. In terms of whether the All NRC Option will provide greater value for money compared to the Do Nothing Option, we may estimate the rate of return using those costs and benefits that can be monetised, and supplement it with qualitative information about those benefits that cannot be monetised. Cost benefit analysis of NRC's legal aid is currently being conducted based on a recent survey of displaced households, which will be able to provide a reliable estimate of the rate of return to Output 1. Since this will not be available in time for this Business Case, the initial findings from the survey can be used to make an informed assessment.

91. If the total number of displacements prevented by the project is 95 per year, and the main activities responsible for this are under Output 1 (with the other Outputs primarily leading to less displacements after the project ends), then the cost per displacement prevented is around £4,700.^{xxvi} Compared to this, the average economic benefit from preventing a displacement may be estimated at £84,542 per displacement (£84,000 in averting costs to households and £542 in savings in compensation). Although the average economic benefit is an overestimate since the displacements are only prevented temporarily, the large size of the benefit compared to the cost provides strong evidence of a very high economic return.

H. Theory of Change for Preferred Option



I. What measures can be used to monitor Value for Money for the intervention?

- 92. Economy:** We will monitor the standardised legal fees paid by NRC and ensure that any increase has adequate justification. These are commercially sensitive so it is not possible to specify them in this Business Case.
- 93. Efficiency:** The joint donor evaluation of ICLA that is currently being carried out is looking at possible efficiency measures of the programme, such as the cost per lawyer satisfactorily trained in Output 2. Once a first draft of the evaluation is produced we will engage with the evaluator and NRC to agree on appropriate measures to track during project implementation.
- 94. Cost effectiveness:** We will monitor the cost per displacement prevented. We currently estimate this to be £4,700, and will monitor it on an annual basis to ensure that cost effectiveness is maintained.
- 95. Rate of return:** This will be estimated as part of the cost of displacement study currently being carried out. We are working closely with the consultants to ensure its quality, and will ensure that the monitoring and evaluation of the programme gathers information on any key assumptions so that an ex-post appraisal can be done at the end of the programme.

J. Summary Value for Money Statement for the preferred option

- 96.** We judge that the All-NRC Option will deliver high value for money compared to the Commercial-NRC and Do Nothing Options. Important benefits will be produced compared to the Do Nothing Option with

Strong evidence to support them, including improved household living standards, improved psychosocial wellbeing, saving of funds for compensation, reduced threat to the viability of a two state solution, and community empowerment. Just monetising the household income and saving of funds for compensation generates an economic benefit per displacement prevented of £84,542, which compares to a cost per displacement prevented of £4,700. Funding NRC to deliver all components will enable these benefits to be provided in a more efficient and effective way compared to contracting out the legal aid to the private sector.

Commercial Case

Delivery through a third party entity (multilateral organisation; civil society organisation or support to government)

A. Why is the proposed funding mechanism/form of arrangement the right one for this intervention, with this development partner?

1. The preferred option to deliver this programme is the All NRC option as detailed in the appraisal case. The commercial mechanism to deliver this option will be an accountable grant.
2. The NRC will administer and manage the full amount of the Accountable Grant. Approximately 40% of the total funding will be transferred to either NGOs or private lawyers to defend HLP cases as per the legal fees costing framework developed by NRC (see Appraisal Case and below).
3. As discussed in the Appraisal Case, NRC is well placed as an international NGO with proven expertise in HLP rights to deliver not only the legal aid services but also a holistic, strategic approach including preventative legal work and multi-level advocacy to increase the likelihood of positive changes in policy and practice in this area.

B. What assurance has been obtained on capability and capacity to deliver?

4. The NRC in the OPTs has successfully managed DFID funds since 2010. NRC performed strongly during the previous funding period (2010-2013), overachieving on results with a total impact score of 92.5% in the last Annual Review of the project. NRC reached 100% of the anticipated milestones with the minor exception of some trainings that were carried out later than expected. Areas for overall improvement were identified as strengthening work on building the capacity of local NGOs and on ensuring value for money in using private lawyers. In response to this, NRC subsequently carried out extensive research on appropriate lawyers fees and has changed their practice as outlined below. The Project Completion Review of the previous funding period will be carried out shortly and we will ensure that lessons learned from this are fed into the monitoring and evaluating framework of the new project.

C. Is there an opportunity to negotiate on anticipated costs?

5. The relevant procurement in the case of this project is the payment of lawyers to provide legal aid.
6. In the interests of ensuring donor money is well spent, and to promote fair remuneration in the legal aid environment, NRC recently carried out an in depth study into fees being paid to private lawyers in the West Bank^{xxvii} and has established a framework for legal fees on the basis of their findings. This study has been examined by DFID and used in developing the appraisal case of this business case. The model developed proposes paying private lawyers to provide legal aid based on a payment per legal procedure. This is different to the retainer model – used by the PA and some other actors - by which lawyers are paid a fixed monthly amount regardless of work undertaken within the month. The procedures-based model has the advantage of paying only for casework performed. It can be capped at a monthly maximum in the same way as a retainer arrangement.
7. NRC will continue to use the retainer-based model if suitable for certain types of contracts to provide general legal coverage in cases where the types and numbers of legal challenges cannot be predicted. Over the next 12 months ICLA will review the respective cost-effectiveness of both the retainer and procedure based models. DFID will continue to follow this work closely to ensure that the most cost-effective model is used and value for money is achieved.

Financial Case

A. Who are the recipients of all proposed payments?

1. The total planned contribution is £3m to the Norwegian Refugee Council's Information, Counselling and Legal Aid (ICLA) Programme.
2. This represents approximately 30% of the ICLA budget.

B. What are the costs to be incurred directly by DFID?

3. £3 million from April 2013 to March 2015.

C. What are the costs to be incurred by third party organisations?

N/A

D. Does the project involve financial aid to governments? If so, please define the arrangements in detail.

N/A

E. Is the required funding available through current resource allocation or via a bid from contingency? Will it be funded through capital/programme/admin?

4. The funding will be provided from DFID OPTs Programme budget.

F. What is the profile of estimated costs? How will you work to ensure accurate forecasting?

5. Cost Estimates for the four outputs have been based on previous funding to ICLA.
6. An indicative spending profile for the duration of the project is presented below. We will monitor the programme closely and realign the budget to those areas that are performing well.
7. [NB awaiting final budget – these are estimated figures based on the last funding phase]

	2013-14	2014-15	Total
Output 1 – Emergency Legal Response	450,000	450,000	900,000
Output 2 – Preventative Legal Response	448,000	448,000	896,000
Output 3 – Policy Change Response	448,000	448,000	896,000
Output 4 – Capacity Building Response	144,000	144,000	896,000
Evaluation -		20,000	20,000
Total			3,000,000

G. What is the assessment of financial risk and fraud?

8. A due diligence assessment was carried out of the Norwegian Refugee Council (NRC) in March 2011 in

relation to the DFID (CHASE PPA) funding of NRC's Shelter and Education work. The only area that the report identified as high priority to address was the lack of a vulnerable adults policy. NRC have confirmed that they have expanded their current organizational and programme policy to cover vulnerable adults^{xxviii}.

H. How will expenditure be monitored, reported and accounted for?

9. Funds will be paid on a quarterly basis in arrears on the basis of submission of quarterly reports. Financial reporting and accountability are set out in the associated Memorandum of Understanding in line with DFID's standard practice.

I. Are there any accounting considerations arising from the project?

10. No special considerations. All standard DFID procedures will be followed including payment in arrears.

Management Case

A. What are the Management Arrangements for implementing the intervention?

1. A DFID Programme Officer at the B1 grade will act as the lead for NRC in the DFID Jerusalem office, with support from the team leader.
2. S/He will be responsible for programme management, including 'Blue Book' compliance and payments.
3. DFID will form part of the donor oversight steering committee that will meet every six months, allowing for increased coordination among funders of the ICLA programme and a more streamlined relationship between NRC and funders.
4. The programme will adhere to recently published guidance on due diligence and DFID will monitor through quarterly reports and annual reviews.

B. What are the risks and how these will be managed?

5. Although there are a number of risks, we are working with NRC to mitigate these risks where possible. Overall DFID funding to NRC is judged to be low-medium risk. This is on the basis that while there are medium level risks which may impact the programme, NRC will be well placed to adapt its programme and in many cases (e.g. changes to the Israeli legal system) support to NRC will be important to enable the UK to understand these changes and to develop appropriate policy responses. Should any risks develop substantially during the programme, we will work with NRC to understand the impact and to adapt the programme to maintain delivery of results.

6. The table below sets the key risks associated with this programme and their mitigation.

Programme outputs	Risk	Risk Level	Mitigation
Output 1: Provision of emergency legal aid to Palestinians at risk of displacement in Area C, East Jerusalem and Gaza (Emergency legal response)	Changes in the legal system and practice make it increasingly difficult to successfully challenge demolitions and displacement. Renewed airstrikes on Gaza destroy homes and livelihoods increasing the need for emergency legal aid.	Medium	The private lawyers and NGOs that provide legal aid on behalf of NRC are very experienced and have access to much expertise regarding the complex legal system. Trends and changes are tracked and analysed and used in advocacy to bring international awareness and pressure in support of the right of Palestinians to defend their HLP rights. Current NRC strategy for Gaza is to promote registration of property and security of tenure so that with renewed demolitions/damage the process of rebuilding is easier and quicker thus ultimately requiring fewer legal aid services.
Output 2: Delivery of a longer term legal strategy that helps to prevent demolitions and displacement (Preventative legal	Changes in the legal system, increasing lobby from settler groups and political priorities mean that it is increasingly difficult	Medium	NRC is very experienced and has access to much legal and local expertise (advisory board etc) regarding the legal context of the OPTs. Advocacy is built into the programme in order to leverage international pressure (including by the UK

response)	to prevent demolitions and displacement.		government) on the Israeli authorities to prevent demolitions and displacement. In many cases international pressure is already the principle reason why some communities have not been displaced. If changes are made to the Israeli legal system, NRC will be well placed to adapt its programme to respond to these.
Output 3: Influencing policy change on housing, land and property (HLP) violations through advocacy (Policy change response).	Political priorities of the new Israeli government mean that pressure increases to remove Palestinian communities from Area C and East Jerusalem making it more difficult to positively influence policy change.	Medium	Increasing international interest in the Middle East Peace Process counterbalances Israeli practices of settlement expansion. Advocacy is built into the programme to leverage international pressure on the HLP rights of vulnerable Palestinians.
Output 4: Capacity of PA institutions built to prevent displacements in Area C, East Jerusalem (capacity building response)	PA political priorities do not include building legal aid capacity.	Medium	NRC works closely with the PA to identify priorities and feasible options for strengthening capacity.

7. In addition, country level risks specific to the OPTs are identified in the following table:

	Risk	Risk assessment		Mitigation strategy
		Likelihood	Impact	
1	Middle East Peace Process stalls/fails to the point where two state solution no longer viable	High	Low	FCO-led diplomatic activity with parties and with international community.
2	Loss of PA as credible or acceptable partner	Medium	Medium	Lobbying all parties
3	Conflict, civil unrest, settler violence or terrorist threat/ attacks in Gaza, West Bank/East Jerusalem/West Jerusalem raise security threat level, with consequences for both staff duty of care and programme delivery	Medium	Medium	Monitoring, analysis, security guidance, continuity plans
4	Gradual easing of movement & access restrictions in the West Bank is stalled or reversed, with negative consequences for economic growth, poverty and the fiscal sustainability of the PA	Medium	Low	Support OQR, UN, PACF capacity, FCO led lobbying.
5	Gaza conflict between Israel and Hamas, or re-tightening of blockade	Medium	High	Diplomatic effort and contingency planning.

6	Natural disasters impact on area (especially earthquakes)	Medium	High	Conflict Pool is funding support to Palestinian Civil Defence including natural disaster preparedness and response; DFID exploring future support under Security & Justice programme.
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C. What conditions apply (for financial aid only)?

8. There are no conditions attached to this funding.

D. How will progress and results be monitored, measured and evaluated?

Assessment of evidence base

9. In the appraisal section it was noted that there is strong evidence on this intervention. The evidence is strongest around outputs 1 to 3 in terms of legal aid and trainings provided and demolition orders suspended. Both NRC and DFID recognise the need to strengthen measurement and evaluation of the influence of NRC's advocacy work. There is also a need to broaden the understanding of impact to include the empowerment of beneficiaries who are better able to understand and take control of their situation through legal counselling. The impact in terms of gender also needs to be better understood and measured. All these areas will be discussed at the beginning of the funding phase and incorporated into the evaluation plan.

Data sources and indicators

10. The results will be assessed against indicators set out in the logframe attached at Annex 1, see summary below.

11. NRC will collect data through a range of mechanisms including:

- *ICLA case database/case management system* (under construction) - will contain details of all ICLA activities and cases and will be used to generate various reports based on data collected.
- *Threats of Displacement Database (TODD) and Freedom of Information requests.* NRC is building a comprehensive database of all outstanding demolition orders in Area C and East Jerusalem with the help of OCHA.
- *ICLA internal monthly reports containing all monthly statistics and cumulative figures.*
- *Partner reports and private lawyer monthly reports.*
- *Beneficiary surveys.* Numerous beneficiary surveys are conducted, measuring usefulness of legal information, knowledge of HLP rights, knowledge of their legal situation and satisfaction with legal services.
- *Training surveys.* pre-and post-test surveys, surveys at the end of training sessions and follow up surveys some months later to measure usage of the information learned.
- *Assessments.* In April 2012 an Impact Assessment was conducted of the ICLA West Bank programme. A full ICLA programme evaluation is currently underway. The Legal Needs Coverage Survey has been finalised.
- *Advocacy and research feedback.* In addition to formal data collection processes, we track feedback received from diplomats, stakeholders, and lawyers on usage of NRC advocacy information and

research reports.

12. One innovation in the logframe is an outcome indicator to measure the influence of NRC's work. The methodology will use a weighted measure of examples of NRC's influencing work.

Reporting arrangements

13. NRC will report to DFID quarterly on their progress and will produce an annual report with progress against all the logframe indicators as well as more detailed narrative. Data will be collected for calendar years with an annual review taking place in March each year based on progress for the previous calendar year.

Evaluation Plan

14. A joint evaluation will be carried out at the end of the funding period together with the other major donors to NRC. Joint evaluations not only constitute good value for money but also good practice in terms of increased donor coordination and reduced administrative burden on the partner. The evaluation will meet DFID's requirements of:

- Independent – the evaluation will be independent to ensure impartiality;
- Robust methodology – the methodology will be agreed by the donor oversight steering group;
- Transparent – the report will be made available to the public.

15. The joint evaluation will be coordinated through the donor oversight steering group outlined above. The donor oversight steering group will be responsible for agreeing the terms of reference, the methodology to be followed and for agreeing the draft and final reports.

16. The evaluation will cover the following key questions:

- Does the programme contribute to durable solutions for beneficiaries? Can it within the existing legal climate, and if so, to what extent?
- Is the programme sufficiently responsive to the changing legal situation and the needs of beneficiaries?
- Are the types of legal assistance and geographical areas in which the assistance is provided most relevant to the beneficiary groups? Which alternatives, if any, should be explored?
- Are HLP disputes and violations being handled in an effective and efficacious manner?
- Are there sufficient tools in place to assess whether objectives are being achieved?
- Is the program perceived as being effective by relevant stakeholders, including beneficiaries, implementing partners, national and international organisations?
- How does the programme ensure that gender considerations are mainstreamed throughout its activities?
- Is the ICLA programme work with partner organizations and the Palestinian Authority effective?
- Has the ICLA programme played an effective role in coordinating the provision of legal assistance throughout the oPt?
- What is the combined impact of the individual programme components? How do they work together to achieve the larger programme objectives?
- Has the program contributed to any change in the legal environment giving rise to displacement?
- Has the programme contributed to the legal empowerment of beneficiaries?

- What impact have the programme's advocacy, information, research and international justice activities had for beneficiaries?
- How are capacity-building activities, both for NRC staff and external stakeholders, enhancing the durability of the results?

17. Approximately £20,000 will be allocated as DFID's share of an overall joint evaluation of ICLA. It is anticipated the full evaluation costs will be around £75,000.

Figure 1: Summary Logframe

Results Chain		Indicators	Baseline March	Target March 2015	Source
IMPACT	Reduced poverty & vulnerability of Palestinians in the OPTs.	Depth of poverty: Poverty gap index	0	0	0
		Annual number of demolitions	0	0	OCHA?
OUTCOME	Palestinians at risk of displacement within the oPt are better able to uphold their housing land and property rights through provision of legal aid services and increased access to justice .	% of households in Area C and East Jerusalem who receive a temporary suspension of demolition order due to legal representation provided through NRC	97% (350 cases)	95% (545 cases)	NRC database based on partner reports and analysis of OHCA demolition records.
		% of beneficiaries participating in information sessions who report the information presented will assist them in their daily lives (sex disaggregated)	70% (both male and female)	80% (both male and female)	Beneficiary surveys carried out after legal information sessions
OUTPUTS	Emergency Legal Response - Provision of emergency legal counselling and representation to Palestinians at risk of displacement in Area C, East Jerusalem and Gaza. 30%	Number of households receiving legal counselling on HLP issues (cumulative total)	West Bank 820 Gaza: 420	West Bank 2,370 Gaza 1,330	NRC Annual Report
		Number of opened and ongoing cases of legal assistance	West Bank-405 ongoing cases	400 opened and 320 ongoing	Partner reports and NRC case database
OUTPUTS	Preventative Legal Response A longer term legal strategy that helps to prevent demolitions and displacement 30%	Percentage of beneficiaries who are at least satisfied with quality of legal counselling and representation services provided	40%	60%	NRC Annual Report using Beneficiary surveys and field surveys.
		Percentage of women surveyed in households receiveing legal representation and counselling who report sufficient knowledge of their case. (WB-public interest cases and Gaza- beneficiaries of legal counselling)	60%	80%	Partner reports and NRC case dat
OUTPUTS	Policy Change Response -Influencing policy change on HLP violations through advocacy. 30%	Number of discriminatory and/or unfair laws, policies or practices exposed through public interest cases	15	35	Legal petitions and NRC and lawyers analysis of petitions
		Number of persons receiving HLP training or technical assistance from NRC (sex disaggregated) Gaza:	West Bank 65 , Gaza 390	West Bank 165(100 under new grant, - 30 women and 70 men) Gaza 1,240	NRC Annual Report using Training attendance sheets
OUTPUTS	PA Capacity Building Response - Strengthen the capacity of the PA to provide legal aid in HLP cases. 10%	Number of instances where beneficiaries of trainings or technical assistance have used of information received from NRC training and technical assistance in their work.	West Bank and Gaza 15	West Bank and Gaza 35	NRC Annual Report using Beneficiary surveys and field surveys.
		Number of persons receiving information services (disaggregated by gender) (it is noted that these beneficiaries are not necessarily distinct from beneficiaries in output 1)	West Bank-385 (175 female, 210 male) Gaza:	West Bank- 1,185 (400 female and 400 male under new	Partner reports and NRC case database
OUTPUTS	Policy Change Response -Influencing policy change on HLP violations through advocacy. 30%	Number of advocacy briefings given on specific HLP issues (verbal or written)	60	130	NRC Annual Report using collated data
		Number of instances reported where NRC research, advocacy, and information documents have been used	10	25	NRC Annual Report based on series of feedback from surveys, emails, notes, media
OUTPUTS	PA Capacity Building Response - Strengthen the capacity of the PA to provide legal aid in HLP cases. 10%	Number of technical services provided to the PA to strengthen their capacity.	0	4	NRC Annual Report based on infor from technical advisers and PA
		Number of direct issues of cooperation where NRC is actively working with UNDP and PA and legal aid partners on development of a sustainable legal aid system for HLP law	0	5	NRC Annual Report basd on minutes of meetings and attendance lists and PA plans.

Logframe

Logframe attached as Annex 1.

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- ⁱ DWG email: Summary of forced evictions, demolitions and displacement in 2012, January 2013
- ⁱⁱ Impact study of NRC, 2012
- ⁱⁱⁱ Fact Finding Mission on Settlements for the UN Human Rights Council, January 2013
- ^{iv} Fact Finding Mission on Settlements for the UN Human Rights Council, January 2013
- ^v UN OCHA, East Jerusalem: Key Humanitarian concerns – Dec 2011
- ^{vi} The British Position on Jerusalem, 1998.
- ^{vii} East Jerusalem: Key Humanitarian Concerns, OCHA, Update December 2012
- ^{viii} East Jerusalem: Key Humanitarian Concerns, OCHA, Update December 2012
- ^{ix} Sanctuary in the City? Urban Displacement and Vulnerability in the Gaza Strip, Humanitarian Policy Group report, December 2012.
- ^x NRC Report. Gaza: Thousands of displaced return to their homes, 26 November 2012
- ^{xi} DWG Update: Summary of Demolitions and Displacements in 2012, January 2013.
- ^{xii} Less than 9% of available land in East Jerusalem can be used for Palestinian construction.
- ^{xiii} NRC submission to the Fact Finding Mission on Israeli settlements in the OPT.
- ^{xiv} Quest no. 3709052
- ^{xv} Quest no.3709052
- ^{xvi} According to a Legal Coverage Survey carried out by NRC in late 2012.
- ^{xvii} According to a Legal Coverage Survey carried out by NRC in late 2012.
- ^{xviii} Mapping Study: Legal Aid Services provided by the Palestinian National Authority. By Diana Butto. October 2011.
- ^{xix} Food Security and Nutrition Survey For Herding Communities In Area C. Joint UNRWA – UNICEF – WFP Household Survey, February 2010.
- ^{xx} Broken Homes: Addressing the Impact of House Demolition on Palestinian Children and Families. Save the Children, 2009.
- ^{xxi} Eg. 20 Bedouin communities have created a “protection committee” to coordinate their response to the threat of forced relocation.
- ^{xxii} A due diligence assessment was carried out on NRC in the context of PPA funding in 2011.
- ^{xxiii} Evidence from NRC funded research on the cost of displacement in the OPTs. At the time of writing this research is still underway so these figures are based on preliminary findings.
- ^{xxiv} Based on NRC (Nov 2012) *Developing a legal aid fee structure for private lawyers in the West Bank*.
- ^{xxv} NRC recently carried out an in depth study into fees being paid to private lawyers in the West Bank and has established a framework for legal fees on the basis of their findings. (see Commercial Case).
- ^{xxvi} Based on the cost of Output 1 being £436,000 per year, which is NRC’s estimate of its cost in 2012.
- ^{xxvii} Developing a legal aid fee structures for private lawyers in the West Bank; appropriate rates of remuneration. December 2012. (confidential report).
- ^{xxviii} Quest no.3856536