

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Advice to persons visiting the Falkland Islands

Paper No: 43/11

Date: 27 January 2011

Report of: Principal Immigration Officer

1.0 Purpose

The purpose of this paper is to inform Honourable Members of the background to the production of written information to persons visiting the Falkland Islands and to seek approval of the recommendations outlined.

2.0 Recommendations

2.1 Honourable members are recommended to reaffirm their policy decision made on 13 January 2010 to provide written information to persons visiting the Falkland Islands and agree:

- (a) That information contained in a letter (attached at **Appendix A**) be distributed to all persons visiting the Falkland Islands and;
- (b) That relevant information be distributed in the manner outlined at paragraph 5.4;
- (c) To agree funding for the production of 5,000 hard copy letters during 2010/11 and 10,000 hard copy annually thereafter

3.0 Summary of Financial Implications

3.1 Production of 5,000 letters during 2010/11 and 10,000 hard copy letters from 2011/12 onwards in English/Spanish at cost of 0.9p each:

	2010/11	2011/12	Ongoing
	£	£	£
<u>Operating Budget</u>	450.00	900.00	900.00
And	2010/11	2011/12	Project Cost
	£	£	£
<u>Capital Programme</u>	None	None	None

Total Project Cost £450.00 for 2010/11 and £900.00 per annum from 2010/11 onwards.

3.2 Only 5,000 letters are required for 2010/11 due to the fact that there are only five months of this year's tourist season remaining.

3.3 Stocks of letters would remain under constant review to ensure these accurately reflect demand and to prevent under/over ordering.

3.4 The Customs and Immigration Department does not have the necessary funds in its printing budget (£2,500 per annum) to cover the costs of producing and disseminating the volume of letters required. In addition, it is more cost effective for a third party supplier - the Print Shop to produce the quantities required as per other Customs & Immigration documentation.

4.0 Background

4.1 The Royal Falkland Islands Police (RFIP) are responsible for upholding the laws of the Falkland Islands. Over the years, they have investigated a number of incidents such as the placing of plaques and the flying of the Argentine national flag, primarily by Argentine nationals. Graffiti written in Spanish has also been daubed on rocks and on abandoned guns located in Camp. Although such action does not amount to offences per se, these incidents have caused some alarm, anxiety and distress especially within the local community.

4.2 The RFIP has developed close intelligence links with the Customs & Immigration Department and have exchanged information on persons visiting the Falkland Islands such as Argentine Veterans who, for example, have been in possession of Argentine National Flags. On several such occasions, these visitors have been met by RFIP officers and a Spanish interpreter usually at their accommodation and given advice about local sensitivities and in particular what conduct might be considered to be appropriate so as not to cause alarm, anxiety or distress to the local population. This is to ensure they have a trouble free stay in the Islands. These meetings have been viewed positively by the visitors.

4.3 A group of 35 Argentine Rugby players are expected to visit the Islands between 12 -19 March 2011.

4.4 No statistics can be provided in relation to the numbers of Argentine war veterans visiting the Islands, because they are not required to identify themselves as such to any authority, but it is known that veterans do visit regularly throughout the year, both by air and as cruise ship passengers.

4.5 A visit by a group of 24 Argentine war veterans in 2009 prompted a number of reports from concerned members of the public in relation to the conduct of the veterans although no offences were disclosed. However, as a result of the events, it was agreed by the RFIP with MLA's that a letter should be distributed to all Argentine war veterans visiting the Islands to advise them on various matters. A letter was prepared and finalised by Members and attempts were made to circulate the letter on the arrival of a LAN flight in late 2009. Concern was raised by staff asked to

distribute the letter and it also became apparent that the content had not been approved by all relevant senior Officers including the then Acting Principal Immigration Officer, Attorney General and Chief Executive.

4.6 Due to the concerns expressed by immigration staff, and legal concerns about the accuracy of the wording of the letter, its distribution was halted until the matter could properly be reviewed. The review of the letter was not given priority by the then Acting Principal Immigration Officer due to competing priorities, so the matter rested.

4.7 Following the election of the new Assembly, MLA's who were aware of the existence of the letter provided a new draft to the RFIP on 1 December 2009. MLA's may have been unaware at that stage that distribution of the letter had halted.

4.8 Principal Crown Council produced a draft ExCo paper on this issue on 28 January 2010 and concluded that it was not practical to issue a letter to Argentine war veterans due to the difficulties in identifying such veterans as part of the immigration process; the potential alternative of distributing the letter to all Argentine passport holders was impracticable because of particular difficulties in relation to cruise ship passengers; and an analysis of the reasons for distribution of the advice letter indicate that the issue of the advice letter was not necessary nor appropriate. This ExCo paper was not progressed.

4.9 This matter was again discussed at an informal meeting between Members and the Chief Executive on 13 January 2010. The following is an extract from the minutes of the meeting:

Letter to Argentine war veterans arriving at MPA – Ros Cheek attended

RC explained the background to the letter and that it had not been approved by CE, AG or HE. RC said she had some concerns about the letter in respect of seizure of goods by Customs; they have no power to do this. RC said she would guess the policy behind the letter would be to minimise the risk of breach of the peace and therefore give guidance to visiting Argentine veterans. There have not been any incidences since those earlier in the year. Customs feel that there would be difficulties in distributing the letter to just veterans as they do not have to declare themselves as such. The other option would be distribute to Argentine passport holders but this would limit it to air passengers only, this would be slightly difficult for cruise ship passengers. It was subsequently felt that a distribution of a letter would not be the route but to provide a general information leaflet. If the letter is purely for veterans of Argentine nationality there is the case of potential discrimination.

RE said there was evidence of flag waving and digging of trenches etc. RC said the one visit did cause problems but there have not been any incidences since.

Members agreed that the letter should be made available to all passengers on an A6 card double sided both in English and Spanish and should be distributed by the Tourism Department.

Action: CE/RC

4.10 The text of the draft letter approved by Members at this meeting is attached at **Appendix A**.

4.11 This letter has not been distributed as requested. Indeed, Paul Trowell who took up his appointment as General Manager of the Falkland Islands Tourist Board (FITB) in April 2010, three months after this decision was made has stated there would be logistical difficulties in his staff distributing the letters as he has insufficient staff to meet all visitors. He also considers that the circulation of the letter would not contribute to a 'positive visitor experience'. He suggested that if a form of words was deemed necessary that this would better be incorporated into pre-embarkation documents e.g. arrival card/leaflet circulated on the vessel/aircraft prior to arrival in the Islands wherever possible.

4.12 Members met with the Chief Executive on 12 January 2011 and discussed this issue. They requested that a paper be prepared for Executive Council on 27 January 2011. Members stated they were keen to see an appropriate letter/information leaflet being utilised for all incoming Argentine passengers even if this means distributing it to all incoming passengers with Spanish versions for Spanish speakers

4.13 The Attorney Generals' Chambers and Immigration Department have previously expressed concern in respect of the accuracy, legality and enforcement of the information outlined in previous drafts of the letter. The intended distribution of the letter to only certain visitors has also raised constitutional considerations i.e. the fact that it may be discriminating against a group of individuals on grounds of their nationality, especially if the letter is solely distributed to Argentine nationals.

4.14 However, the Attorney Generals Chambers consider that the current letter as attached at **Appendix A**, the text of which has previously been agreed by Members, has been sufficiently reworded from previous drafts to address almost all their outstanding concerns. The letter has also been updated with a Header to identify the originator i.e. Customs and Immigration Department together with updated contact and web site information for the FITB.

4.15 Members originally requested that the information be provided on an A6 card double sided both in English and Spanish. Following consultation with the Print Shop, it is apparent that the information needs to be presented in A4 format to be legible to the reader, some of whom will have impaired eyesight.

4.16 The Attorney Generals Chambers considers that if the letter is distributed to all arrivals there is no question of discrimination. The only remaining issue is to address on what basis "battlefield items" would be confiscated at the airport and this issue will be clarified by the Collector of Customs and Principal Crown Council prior to the content of the letter being finalised. This legal issue should not prevent ExCo approving the content of the letter, subject to this minor amendment.

4.17 Customs and Immigration Department would be responsible for coordinating the production and dissemination of the letters.

5.0 Distribution methods

5.1 It is not practical to distributing letters solely to specific groups of people e.g. Argentine war veterans because every Argentine passport holder would have to be questioned as to their status and also it would be discriminatory to do so as outlined previously. Likewise, the language barrier would make this difficult, may cause offence, and would create delays in the immigration processes; in relation to which efforts are continuously made to ensure that any delay for passengers caused by immigration processing is kept to the minimum necessary.

5.2 The only alternative is to distribute the advice letter or the information contained within it via another medium to every visitor to the Falkland Islands. According to the Falkland Islands Tourist Board, overall, visitor arrivals in 2011 by inbound overnight tourists - overnight (5,796) cruise passengers (50,481) and domestic tourists (13,817) are expected to total over 70,000.

5.3 It is not deemed feasible, desirable or affordable for Falkland Islands Government to circulate over 70,000 advice letters to visitor every year. Based on a current estimate provided by the Print Shop, this would cost £6,300 at 0.9p per letter (double sided in English with Spanish translation). A pragmatic, cost-effective approach is required to distribute the required information in various mediums.

5.4 All visitors arrive in the Falkland Islands by land or Air and the following process is recommended in respect of the distribution of the relevant information:

➤ **Visitors arriving by Air:**

LAN Chile: The letter in English and Spanish would be handed to all passengers on their arrival in the Falkland Islands by Customs and Immigration staff. It is not anticipated that Lan Chile will agree to provide this information to passengers prior to their arrival in the Falkland Islands for political and cost reasons. It may be feasible for this information to be incorporated within a revised Falkland Islands arrivals card with a Spanish translation although this work has not yet been scoped.

Airbridge: Information in the letter will be provided electronically to the MOD who will be requested to incorporate it within their existing information leaflets circulated to passengers on their departure from Brize Norton. The information will be in English only to reflect the very low number of Spanish speaking passengers that travel on the flight and existing Customs & Immigration documentation which was amended at the request of Members.

Oil Charter Flight: This aircraft carries no fare paying passengers. Arrivals would not be classed as 'visitors' as their primary intention for entering the Islands is for work purposes, most of which is conducted offshore. It is not intended to distribute visitor information to these passengers.

➤ **Visitors arriving by Sea:**

The majority of visitors to the Falkland Islands arrive by sea on cruise ships. It is estimated that 49,000 cruise passengers will visit the Falkland Islands in 2011. The immigration processes used in relation to cruise ships do not allow for a letter to be provided to passport holders before they disembark; because of the large numbers involved in cruise ship visits, the cruise ship operators surrender the passengers' passports to the immigration service in bulk; for the passports to be processed whilst the passengers are ashore.

It is recommended that the information in the letter be provided electronically to the ship's agents in Stanley and that they request the cruise operators to incorporate the text within the existing information leaflets they provide to their passengers prior to embarkation. The information needs to be in English and Spanish to represent two of the most popular language spoken by passengers.

➤ **Other distribution mediums**

It is recommended that hard copies of the letter be made available at the made available for any visitor to collect at the FITB Jetty Visitor Centre. FITB have also undertaken to post the contents of the letter on their website.

It is also recommended that hard copies be supplied to FIC Penguin Travel and Falkland Islands Tours and Travel (FITT) for distribution to all tourists they are escorting, subject to the agreement of these companies to do so.

5.5 It is recommended that 5,000 letters be produced for the remainder of the 2010/11 tourist season and 10,000 letters produced from 2011/12 onwards. The letters will be in A4, double sided in English with a Spanish translation and will be prepared in the first instance for circulation to passengers arriving on the LAN Chile flight (maximum passengers 158 per month) and for distribution at the Jetty Visitor Centre at a cost of £450.00 for 2010/11 and £900.00 from 2011/12 onwards (9p per copy).

6.0 Legal Implications

6.1 The content of the proposed letter at **Appendix A** has broadly been agreed by the Attorney Generals' Chambers. The only remaining issue is to address on what basis "battlefield items" would be confiscated at the airport. The letter currently indicates customs officers have lawful authority to remove war souvenirs from departing visitors. The Collector of Customs has been advised that there does not appear to be any such lawful authority. Whilst taking war souvenirs from battle sites may constitute theft in some circumstances, the possibility of theft being involved does not give customs officers authority to unilaterally seize items. Whilst it may be appropriate to discourage the removal of war souvenirs from battle sites, there has been no formal development of such a policy (which would include consideration of possible legal protections). This issue will be clarified by the Collector of Customs and Principal Crown Council prior to the content of the letter being finalised.

This legal issue should not prevent ExCo approving the content of the letter, subject to this minor amendment.

6.2 As long as the letter is distributed to all arrivals, there is no question of discrimination. However, the distribution of a letter to a defined group of visitors which is predicated on the assumption that they as a group of individuals are likely to commit criminal offences; the group being identified by virtue of their nationality, will raise an issue of potential discrimination.

7.0 Human Resources Implications

None.

APPENDIX A



The Falkland Islands Government

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E-mail: admin@customs.gov.fk

ADVICE TO PERSONS VISITING THE FALKLAND ISLANDS

Dear Sir / Madam,

We welcome you, your family and friends to the Falkland Islands, and hope that your visit here will be a pleasant and enjoyable one. We trust that your visit here will be beneficial to you. You will be aware that some of those involved in the war from both sides continue to be sensitive about certain things related to their experiences in 1982 and we therefore ask that you respect the feelings of Falkland Islanders, just as we will respect yours.

We have put together a few suggestions which we hope will assist you to enjoy and make the most of your visit to the Islands.

- The Argentine military cemetery at Darwin is maintained by the Argentine Families Commission. Personal plaques or memorials should be of an approved type and may only be left with their prior approval.
- The removal of items from battlefields relating to the war of 1982 is not permitted and such items will be confiscated at point of departure from the Falkland Islands. Removal of dangerous items of ordnance such as bullets, remnants of cannon shells etc. is not permitted and in any case cannot be carried on an aircraft.
- Please be aware that the public waving or displaying of an Argentine Flag anywhere in the Falkland Islands has the potential to cause alarm and distress. Please refrain from doing this to prevent unnecessary upset and inconvenience.
- The writing or painting of names, military units or other graffiti on stones at mountain sites or at memorials is not permitted and could lead to prosecution under the laws of the Falkland Islands.

Should you require assistance, please do not hesitate to contact the Royal Falkland Islands Police on +500 28100 - or on 999 in an emergency.

For further information that may assist with arrangements for tours or accommodation during your visit please contact Falkland Islands Tourist Board Information staff at the Jetty Visitor Centre, Ross Road, Stanley. Tel +500 22281. website www.falklandislands.com.

Thank you for your cooperation and understanding.

Enjoy your stay.