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Development, Concepts and Doctrine Centre

JOINT DOCTRINE PUBLICATION 3-46

LEGAL SUPPORT TO JOINT OPERATIONS

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is promulgated
as directed by the Chiefs of Staff

A handwritten signature in black ink that reads "MP Colley". The signature is written in a cursive style and is positioned above a large, hand-drawn semi-circular line that spans across the width of the signature.

Assistant Chief of the Defence Staff (Development, Concepts and Doctrine)

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The Development, Concepts and Doctrine Centre
Ministry of Defence
Shrivenham
SWINDON, Wiltshire, SN6 8RF

Telephone number: 01793 314216/7
Military Network: 96161 4216/4217
Facsimile number: 01793 314232
Military Network: 96161 4232
E-mail: publications@dcdc.org.uk

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JOINT DOCTRINE PUBLICATIONS

The successful conduct of military operations requires an intellectually rigorous, clearly articulated and empirically-based framework of understanding that gives advantage to a country's Armed Forces, and its likely partners, in the management of conflict. This common basis of understanding is provided by doctrine.

UK doctrine is, as far as practicable and sensible, consistent with that of the North Atlantic Treaty Organization (NATO). The development of national doctrine addresses those areas not covered adequately by NATO; it also influences the evolution of NATO doctrine in accordance with national thinking and experience.

Endorsed national doctrine is promulgated formally in JDPs.¹ From time to time, Interim JDPs (IJDPs) are published, caveated to indicate the need for their subsequent revision in light of anticipated changes in relevant policy or legislation, or lessons arising out of operations.

Urgent requirements for doctrine are addressed through Joint Doctrine Notes (JDNs). To ensure timeliness, they are not subject to the rigorous staffing processes applied to JDPs, particularly in terms of formal external approval. Raised by the DCDC, they seek to capture and disseminate best practice or articulate doctrinal solutions. This can subsequently be developed in due course as more formal doctrine.

Details of the joint doctrine development process and the associated hierarchy of JDPs are to be found in JDP 0-00 *Joint Doctrine Development Handbook*.

¹ Formerly named Joint Warfare Publications (JWPs).

PREFACE

1. **Purpose.** JDP 3-46 *Legal Support to Joint Operations* is a guide for the Joint commander and his Legal Adviser (LEGAD). It informs the commander on what he can expect from his LEGAD, and the LEGAD on what his commander expects of him. It concentrates on Joint operations and Joint headquarters. Nevertheless, by a process of analogy and inference the reader will be able to translate the principles, if not the material, into any operational environment, whether Maritime, Land or Air. Component commanders and other subordinate commanders, LEGADs and other staff, should therefore, find the publication of practical benefit. The publication is not a national manual of the law of armed conflict,² nor is it a handbook of operational law. It is an introductory guide to the role of law and the role of the LEGAD in the conduct of operations. This modest aim belies the importance of the LEGAD in the armed forces. Indeed, Additional Protocol 1 to the 1949 Geneva Conventions requires the high contracting parties³ to ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and the Additional Protocol.⁴

2. **Structure.** JDP 3-46 comprises 2 chapters:

a. **Chapter 1 – Legal Advice in Operations.** Chapter 1 focuses on how the legal framework of a campaign impacts the operation and the commander. It examines the role of the LEGAD in operations, his relationship with the commander, and sketches out his key responsibilities.

b. **Chapter 2 – Additional Guidance for Legal Advisers.** Chapter 2 focuses on the LEGAD's position in the headquarters, his most important professional links, discusses targeting procedures, and sets out the LEGAD's required competences, knowledge, experience and resources.

² See Joint Service Publication 383 *Joint Services Manual of the Law of Armed Conflict*.

³ A high contracting party is a state which has consented to be bound by a treaty, and for which the treaty is in force.

⁴ 1977 Additional Protocol 1 to the 1949 Geneva Conventions, Article 82.

LINKAGES

3. **National Joint Doctrine.** JDP 3-46 is consistent with the ideas contained in the following publications: JDP 0-01 *British Defence Doctrine*; JDP 01 *Campaigning*; JDP 3-00 *Campaign Execution*; JDP 5-00 *Campaign Planning* and Joint Service Publication 383 *Joint Services Manual of the Law of Armed Conflict*. It is also coherent with subject-specific publications such as JDP 3-40 *Security and Stabilisation – The Military Contribution*, JWP 3-50 *The Military Contribution to Peace Support Operations*, JDP 3-52 *Disaster Relief Operations*, JDP 1-10 *Prisoners of War Internees and Detainees* and Joint Warfare Publication 3-51 *Non-combatant Evacuation Operations*.

LEGAL SUPPORT TO JOINT OPERATIONS

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CHAPTER 1 – LEGAL ADVICE IN OPERATIONS

101. Adherence to the law is crucial in underpinning the legitimacy and campaign authority of any operation.¹ All military operations have a legal dimension; there must be a legal basis for the operation and it must be conducted in a lawful manner. The legal framework is as much an operational enabler as a constraint; it confers a freedom to act, as well as a constraint on military activity. Accordingly, legal advice is essential, not only in the strategic decision to commit UK Armed forces, but also in the interpretation of that decision and its application at the operational and tactical levels.² The Legal Adviser (LEGAD) is one of the commander's principal staff officers and advisers, and has a pivotal role in campaign planning and execution.³

102. The focus in this publication is on the operational level and more specifically on the Joint Task Force Headquarters (JTFHQ) and National Contingent Headquarters (NCHQ). However, it is also directly relevant to: the Permanent Joint Headquarters (PJHQ); component commands; commands outside the Joint environment and the LEGADs and command teams that support the respective commanders. In legal matters, as in all other aspects of operations, tactical activity can have strategic and operational effect and *vice versa*.⁴

103. Operational Law is broader than the Law of Armed Conflict (LOAC).⁵ It encompasses all legal aspects of operations from routine service discipline, through local purchase contracts abroad, to the use of force and everything in between. This publication provides only the general legal framework, the relative importance of which will vary with each mission. It will be necessary, therefore, for readers to follow various signposts to other publications, especially those linkages mentioned in the Preface.

SECTION I – OPERATIONS AND THE LAW

104. The use of UK armed forces in an operation must be consistent with both the UK's obligations in international law and the applicable domestic law.⁶ This requirement to comply with the law relates both to the decision to commit

¹ Joint Doctrine Publication (JDP) 0-01 *British Defence Doctrine* (BDD) (3rd Edition), paragraphs 160 -163.

² Strategic, operational and tactical levels of war are explained in BDD (3rd Edition) pages 2-6 to 2-7; JDP 01 (2nd Edition) *Campaigning* paragraphs 201-207 and elsewhere.

³ JDP 3-00 (3rd Edition) *Campaign Execution* paragraph 122.

⁴ JDP 01 (2nd Edition) paragraph 209.

⁵ Law of Armed Conflict (LOAC) is also known as International Humanitarian Law. LOAC will be used in this publication.

⁶ The National Security Strategy of the United Kingdom: Update 2009 – *Security for the Next Generation*, page 30.

UK forces to an operation, and also to the subsequent planning and conduct of that operation.

105. Legal advice accordingly informs the decision to commit UK armed forces. The Attorney General, who is a member of the Cabinet and is the Government's principal legal adviser, advises the Prime Minister at the strategic level on the legal basis for committing UK Armed Forces.⁷ Legal advice also features in the dissemination and implementation of that decision. Accordingly, the Attorney General also provides advice to the Ministry of Defence (MOD) (and other government departments) on legal issues impinging on operations that are underway. The Director Central Legal Services is the primary source of operational law and LOAC advice to the MOD. The Director Central Legal Services provides strategic legal advice to the Government as well as providing oversight of operational legal advice delivered from PJHQ and LEGADs deployed with subordinate formations in joint operations. Additionally, all 3 Services have uniformed lawyers who provide commanders and their staffs with legal advice at the operational and tactical levels, including legal aspects of operations. Each of the 3 Heads of the Legal Services⁸ are responsible for the availability of appropriately trained Service lawyers to support operations.

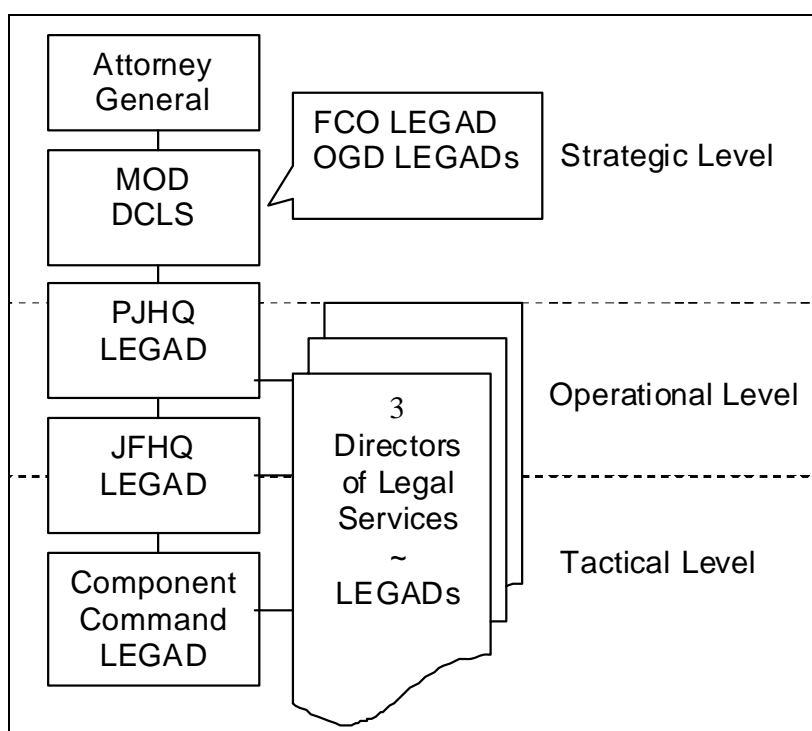


Figure 1.1 – Diagram of Legal Advisers

⁷ Examples of legal mandates include: national self-defence; United Nations Security Council Resolutions (UNSCRs); humanitarian intervention, and host-nation consent.

⁸ The Director Naval Legal Services, the Director General of Army Legal Services, and the Director of Legal Services (Royal Air Force).

106. A clear understanding by the commander of the legal mandate of a campaign is crucial to defining and accomplishing the mission. Without it the commander cannot deliver legitimacy and campaign authority;⁹ with it he can explain the boundaries of permissible action. The legal categorisation of the conflict affects the envelope of laws that is applicable to that campaign, including the rules relating to the use of force at the tactical level. For example, in an international armed conflict, LOAC applies, whereas in humanitarian or disaster relief operations, LOAC will not typically apply unless these operations are conducted within an armed conflict or develop into one. The mandate may change as the campaign evolves, and this may alter the applicable envelope of laws. For example, the dramatic change in the legal mandate for operations in Iraq between 2003 and 2009 moving from a revived United Nations Security Council Resolution (UNSCR) at the invasion, through a succession of UNSCRs providing the basis for a Multinational Force, and finally to bilateral Memoranda of Understanding (MOUs) relying on host nation consent, resulted in a marked change to the operational and legal freedoms and constraints. This is described more fully in JDP 3-40 *Security and Stabilisation: The Military Contribution*.¹⁰

107. There is a broad range of laws potentially applicable to a campaign, which can act as enablers or constraints to a commander. These include host nation law, sending state law, LOAC, and International Human Rights law. To these may be added rights and obligations under UNSCRs or bilateral/multilateral agreements, such as Status of Forces Agreements (SOFAs), Technical Arrangements or MOUs. To illustrate the point, take the example of a member of the UK armed forces who arrives in theatre with a weapon. The rules determining whether he can carry his weapon, and the procedures for entering the country may be determined by a SOFA. Parts of UK law, including English criminal law via the Armed Forces Act 2006 and other extra-territorial provisions follow him into theatre. He will be particularly mindful of the English law of self-defence governing the use of reasonable and necessary force. If conducting a Captured Persons (CPERS) activity, he must adhere to the appropriate legal standards of treating CPERS. In addition, the UN Security Council may be seized of the situation in the host nation and have provided the Multinational Force with certain powers, obligations or limitations. The ability to use force will be regulated by the legal mandate.

108. Notwithstanding the existence of an extensive legal framework, policy plays a crucial role in determining what the armed forces will do in operations. This may be expressed in documents such as directives and Rules of Engagement (ROE). Policy may have the effect of constraining military

⁹ BDD (3rd Edition) paragraphs 160-163.

¹⁰ JDP 3-40 *Security and Stabilisation; The Military Contribution*, Annex 4B.

operations well within the legal bounds of what can be done, but it cannot authorise the armed forces to operate outwith the law. Policy restrictions may reflect the complexity of the political situation of the troop contributing nations as much as the requirement to be sensitive to the cultural, religious or moral situation in the host nation.

SECTION II – THE COMMANDER AND THE LAW

109. The framework of laws brings responsibilities and accountability. The UK is legally bound to investigate and prosecute those who violate the laws of war.¹¹ Individual members of the armed forces are accountable for their own actions on operations. Commanders have additional accountability under the doctrine of command responsibility.

a. **Individual Responsibility.** An individual is responsible for violations if:

- (1) He commits the crime, on his own or jointly with others.
- (2) He orders, solicits or induces a crime which is committed or attempted.
- (3) He aids, abets or otherwise assists in the commission of the crime, including providing the means for its commission.
- (4) He contributes to the commission or attempted commission of the crime by a group of persons acting with a common purpose.¹²

b. **Command Responsibility.** A commander must take into account LOAC when issuing orders and instructions or establishing procedures or training,¹³ and must take steps to prevent or report violations, and if necessary institute disciplinary action. A commander will be criminally responsible if, for example:

- (1) He participates in the commission of a war crime in the manner described at sub-paragraph a, particularly if he orders its commission; or

¹¹ Hague Convention (HC) IV Article 3; Geneva Convention (GC) 1 Article 49, GC II Article 50, GC III Article 129, GC IV Articles 29 & 146; Additional Protocol (AP) 1 Article 91, and the *Armed Forces Act 2006* Sections 113-115.

¹² International Criminal Court Statute 1998, Article 25.

¹³ See JSP 898, *Catalogue of Defence Policies with Impact on Training and Education*, Part 3, Chapter 8, paragraph 2.

(2) He knows or, owing to the circumstances at the time, should have known, that war crimes were being, or were about to be, committed by forces under his command and control, and failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authority for investigation and prosecution.¹⁴

110. The commander is at the heart of the potentially complex legal framework. His own actions must be in compliance with the applicable laws, and he must also fulfil his wider command responsibilities, including his central role in the service disciplinary system. A commander's acts and omissions may well be investigated administratively or subjected to legal proceedings in criminal or civil tribunals.

SECTION III – THE COMMANDER-LEGAL ADVISER RELATIONSHIP

111. In order for the commander to ensure compliance with the legal framework, a sound relationship between the commander and his LEGAD is essential. Accordingly the commander must have access to a LEGAD.¹⁵ PJHQ is responsible for scoping the requirement for LEGADs to be deployed on current operations. Most formations of brigade and equivalent size and above, which are deployed for a specific operation, will be provided automatically with a lawyer of appropriate seniority and experience to serve on the commander's staff. Where a LEGAD will join a staff as an individual augmentee, the Defence Augmentation Cell will approach the appropriate Service to arrange the nomination of a suitably trained and experienced candidate. The component level LEGAD is usually sourced by the single-Service chain of command. In preparing for an operational deployment all commanders should review their access to appropriate legal advice and, if necessary, request augmentation. They should never be placed, or allow themselves to be placed, in a position of having to deploy without their LEGAD or access to legal advice.¹⁶ Clearly whenever the Joint Force Headquarters (JFHQ) deploys (usually at short notice) the JFHQ LEGAD will also deploy.

¹⁴ AP 1 Article 86(2); International Criminal Court Statute Article 28. *International Criminal Court Act 2001* Section 65(2); see Section 65(3) for other potential offences for superiors.

¹⁵ AP 1, Article 82.

¹⁶ See further, paragraph 217.

Command Support

112. The LEGAD's overriding duty is to provide the commander with timely, accurate, relevant, succinct and robust legal advice.¹⁷ The LEGAD should avoid long-winded, complicated to understand or equivocal advice. The commander must acknowledge, however, that some complex issues require detailed explanation. Legal advice must be proactive as well as reactive if the commander is to exploit legitimate operational options.

113. The LEGAD's relationship with the commander and other staff officers rests on his ability to identify the key legal issues in a given situation, being sensitive to policy issues that bear upon legal advice, and *vice versa*, and to provide practical, workable legal advice that the commander understands and can readily use. An effective LEGAD must have an appreciation of the operational environment and tactical activity as well as a sound understanding of the realities and uncertainties confronting force elements. The LEGAD must be able to explain the consequences of proposed courses of action, and have the moral courage to provide and justify unpopular advice. While understanding that he is there to advise, the LEGAD must, when necessary, both speak out and be encouraged to speak out. However, decisions are a matter for the commander. Likewise, the commander should respect the advice of the LEGAD as the subject matter expert while recognising that his adviser is likely to be junior and less experienced in warfighting. The commander and LEGAD should strive quickly to achieve a mutual respect.

114. The LEGAD needs to provide robust advice against potentially illegal options and state the existence of any lawful alternatives in the form of operational suggestions to the commander. If he does this he will be seen as a positive contributor rather than a negative influence; someone who enables operations to proceed legitimately, rather than someone who stifles tactical endeavour. To do this the LEGAD needs to be aware of the commander's campaign plan.¹⁸ The commander can help the LEGAD by taking him into his confidence, sharing his intent in detail, and allowing the LEGAD to get inside the commander's mind. Effectively this will enable the LEGAD to see and hear what the commander sees and hears. The commander-LEGAD relationship can flourish or flounder like an outer office relationship.¹⁹ As experienced staff officers, LEGADs have other skills that the commander may wish to use, provided, of course, that his core legal function is not prejudiced.

¹⁷ Legal advice should be recorded in an appropriate format by the LEGAD as an important part of any audit trail. See further, paragraph 118.

¹⁸ JDP 01 (2nd Edition) paragraph 330; JDP 5-00 (2nd Edition) *Campaign Planning*, Chapter 2.

¹⁹ Flag/General/Air Officer and his military assistant/executive assistant/personal staff officer.

Position of Legal Adviser

115. The operational LEGAD is part of the Command Group, whether on the staff of the JTFC, a Component Commander or Contingent Commander. This ensures the LEGAD's ready availability to the commander and his accessibility to the commander's key staff officers. The LEGAD's responsibilities are likely to cut across the staff divisions. The formality of his placement in a particular division is less important than the reality of his influence as a member of the commander's immediate staff.²⁰ The commander should ensure that the LEGAD is empowered to act effectively in carrying out his pivotal role. The LEGAD will need to have access to information commensurate with his responsibilities as command legal adviser.

116. Other than the commander, the LEGAD needs to develop his closest working links with the Chief of Staff (COS), Deputy Chief of Staff (DCOS), Policy Adviser (POLAD), J3²¹ and J5 staff. Legal and political aspects of operations are often intertwined. The commander will expect the POLAD and LEGAD to work in harmony both to interpret high level political and legal direction, and to present information outside the headquarters in a coherent way. The LEGAD must expect to help the POLAD with the preparation of briefings that have a legal dimension. The LEGAD's strong link with J3 and J5 is founded on the requirement to ensure that all operations are undertaken in accordance with international law and applicable UK domestic law. The LEGAD and J3/J5 will typically be in regular discussion about targeting, ROE and influence activities so that the LEGAD is aware of all ongoing issues which may require legal input. Legal problems should ideally be resolved by the close cooperation of staff officers and before they reach the commander. The LEGAD must also be proactive, ensuring that he is present at key meetings,²² that he makes himself available to the J2 and J3 operations support teams and always remains approachable. The LEGAD also needs to be aware of the legal implications associated with longer range planning and should liaise early with J4 and J5 to identify and resolve such issues.

117. **Respect for Law.** The LEGAD's conduct and conversation should cultivate a positive respect for the rule of law on operations, given that observance of the rule of law by UK Armed Forces is fundamental to the UK's warfighting ethos and to maintaining campaign authority.²³ Legal advice to the commander is the obvious vehicle for achieving this end, but the LEGAD is likely to have to work closely with the POLAD to ensure a clear understanding

²⁰ In the UK PJHQ the LEGADs are in J9. Their output falls just as much in J3 and J5.

²¹ The post title of the key J3 point of contact will vary from headquarters to headquarters.

²² For example, where appropriate, meetings of the Joint Command Group, Joint Force Planning Group, Joint Coordination Board and Joint Effects Meetings.

²³ BDD (3rd Edition) paragraph 163.

of the relationship between law and policy, and to liaise with the media adviser to explain the commander's commitment to following the legal mandate of the operation. Consequently, an awareness of the links between policy and law is essential because, as a matter of policy, the MOD may impose constraints upon the armed forces that are not legally necessary.

118. **Recording of Legal Advice.** Given the privileged nature of legal advice, the LEGAD must make an appropriate record of advice provided on operations and ensure that a suitable system is in place to maintain that record. Legal advice is often a key consideration in the commander's decision-making process and accordingly, is an important part of the decision-making audit trail.

SECTION IV – THE LEGAL ADVISER'S ROLE IN CAMPAIGN PLANNING

119. **Planning.** The commander will understand the importance of the legal mandate and framework documents,²⁴ and will look to the LEGAD to provide a practical interpretation relevant to the mission as well as an explanation of the applicable envelope of laws. In order to do this, the LEGAD must be involved early in the planning process. He should be on hand to guide planners on legal issues in the estimate process. Before courses of action are presented to the commander, the LEGAD can quickly advise on contentious or ambiguous options, advise against unlawful options, and assist in developing alternative, lawful options, while keeping planners on track in designing an operational plan that meets the strategic mandate.

120. **Rehearsal.** LEGADs must be involved in evaluating the issues revealed in wargaming and mission rehearsal, for this provides the best opportunity to identify or refine targeting, ROE²⁵ or combat legal issues. LEGADs should think through the different phases of an operation and prepare to deal with foreseeable legal questions that may arise. Sovereignty of states affects aspects of mounting an operation, such as assistance and basing, overflight rights, air and seaports of disembarkation, information/intelligence gathering and general access to areas adjacent to the Joint Operations Area.²⁶ In armed conflict, issues such as prisoner handling, refugees, as well as combat search and rescue operations will arise. In addition, if occupation is contemplated, or if it is considered that occupation may occur, the LEGAD will need to examine the implications of this, and carefully consider the laws of the

²⁴ Such as Status of Forces Agreements (SOFAs) and Memoranda of Understanding (MOUs).

²⁵ It should be borne in mind that Rules of Engagement (ROE) are a J3/J5 lead and not the sole responsibility of the LEGAD. The LEGAD's role is to provide close legal support to his J3/J5 colleagues in the formulation of ROE.

²⁶ JDP 3-00 (3rd Edition) paragraph 1B-5(d).

occupied territory. These considerations should inform the planning process. The PJHQ/JFHQ LEGADs have a place in the Joint Command Group, whose role is to prioritise the planning effort and provide direction and guidance as required.²⁷

121. Legal Consultation. J3, J5 and the Contingency Planning Team will typically approach the LEGAD for advice, depending on how far campaign planning has advanced.²⁸ The planning of the operation will generate a number of actions and issues and it will be necessary for Service LEGADs to be proactive in seeking clarification on legal issues from the chain of command, PJHQ LEGADs or MOD Central Legal Services. Good communication is important in ensuring that there is coordination and consistency in the legal advice provided. On issues of national policy or interpretation, or national legislation or prerogative, the Director Central Legal Services may need to approach the Attorney General for advice.

122. Multilateral Coherence. The UK will rarely operate without the support of other nations. Mostly it will operate as part of the NATO Alliance or in a coalition. It is important for UK LEGADs to liaise closely and early with counterparts in order to harmonise their understanding of multinational legal issues and, where differences and caveats exist, to understand them and make them clear to the commander, to resolve differences where possible and mitigate their effect on operations.²⁹ It is possible for 2 states to undertake multinational operations in support of shared missions which seek the same end-state, but which rely upon completely different legal bases for the use of force. This affects not only ROE, the parameters in which force may be used, and force allocation to missions but also can dictate the tempo of operations, raise political concerns and create considerable friction. The LEGAD should also consider matters such as the issuing of orders to the personnel of other states, the existence of parallel legal frameworks where multiple operations are being conducted in the same geographical area, and the status of embeds.³⁰ In the multinational arena, the proactive LEGAD should interact directly with the POLAD and keep himself sufficiently well informed to anticipate potential legal difficulties and keep his commander aware of emerging issues. The question of who can do what may prove complex to

²⁷ JDP 3-00 (3rd Edition) paragraph 3C-2.

²⁸ Depending upon the nature of the specific operation there may be a greater or lesser demand for advice from J3/J5, and a corresponding change in demand for advice from other teams.

²⁹ See JDP 3-00 (3rd Edition) paragraph 1B4d: 'All participants within a multinational force *should* adhere to common and consistent ROE, agreed prior to a campaign. This will avoid ambiguity or inconsistency. However, nations inevitably impose restrictions, which commanders must understand and factor into operations.'

³⁰ UK treaty obligations and domestic legislation may also affect the way in which UK personnel operate with other nations which use certain weapons – see for example the Landmines Act 1998 and Cluster Munitions (Prohibitions) Act 2010.

resolve in practice. Expectation management, and the production of guides for the commander on caveats and red cards is accordingly an important responsibility.

123. **Host Nation.** Where UK forces are operating with the consent of a host nation, the LEGAD will interpret and explain the consequences of the terms of any SOFA or similar arrangement which exists, highlighting key freedoms and constraints. The LEGAD will also explain the legal framework and attendant risks if no such arrangements exist. The LEGAD should also consider host-nation laws in determining the lawfulness of proposed courses of action.

124. **Law of Armed Conflict Training.** The Geneva Conventions place an obligation on parties to the conventions to teach LOAC:

'The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains'.³¹

125. **Law of Armed Conflict Training Policy.** Joint Service Publication (JSP) 898 Part 3, Chapter 8 sets out the Armed Forces LOAC Training Policy. In accordance with that policy and single-Service procedures, the bulk of the training and education of deployed personnel should already have been delivered as a matter of routine during new entry and career courses, with appropriate continuation and pre-deployment training. There may, however, be a requirement in theatre for deployed LEGADs to contribute to relevant, mission-specific legal briefings and LOAC training for deployed forces. A change of mandate or ROE may necessitate re-training. Any such training should be consistent with JSP 898 and single-Service procedures. PJHQ is responsible for determining the training requirement for Individual Pre-Deployment Training through the IPDT Working Group chaired by Assistant Chief of Staff (ACOS) J3,³² and appropriate liaison with PJHQ is necessary if such training is required. A LOAC syllabus should be built round practical examples and tailored to the target audience if it is to be both relevant and convincing.

³¹ 1949 Geneva Convention I Article 47. See also GC II Article 48, GC III Article 127, GC IV Article 144 & AP 1 Article 83.

³² JSP 823, Part 3, Chapter 8, paragraph 17.

SECTION V – THE LEGAL ADVISER’S ROLE IN OPERATIONS EXECUTION

126. As every operation is different the legal issues arising from one operation to the next will differ. An indicative list of the types of LOAC issues which may arise is at Annex A. The intent of this publication, however, is not to address all possible issues, rather it is to set out the correct approach. The point for the deployed LEGAD is that, while these issues belong to the execution phase of an operation, they need to be thought through at the planning stage. In respect of UK operations and UK areas of responsibility, PJHQ LEGADs, drawing on strategic guidance issued by Director Central Legal Services, should scope the legal issues, study lessons identified from previous operations and brief the legal issues down the chain of command before decisive operations start. While the JTFHQ/NCHQ LEGAD is likely to be familiar with the specific legal issues of an emerging operational plan, owing to his organic link to PJHQ, this may not be the case for other LEGADs. The PJHQ and JTFHQ/NCHQ augmentees on the one hand and component command LEGADs on the other may well have different backgrounds, and have come to the operation at a late stage of the planning, or even execution stages. Therefore, no assumptions should be made. Should complex issues arise unforeseen during the course of an operation it is essential that the deployed LEGAD coordinate with PJHQ to obtain high level (MOD or UK Government) direction. What follows is a list of some of the most important practical issues which may face the LEGAD during the course of an operation. The LEGAD’s actual level of involvement in these areas will be dependent on the nature and circumstances of the particular operation, available legal capacity, and the tasking of other lawyers in theatre.

127. **Rules of Engagement and Use of Force.** ROE are essentially a policy and operational guidance tool which must sit within the legal framework of an operation.³³ Responsibility for compliance with ROE is a command function. ROE, however, do not by themselves guarantee the lawfulness of any use of force. Although ROE are a command responsibility, and a J3 staffing lead, it is a role of the LEGAD, in both the planning and the execution of operations, to ensure that all within the chain of command understand their responsibilities with respect to the lawful use of force. The policy framework for the use of force is a related challenge for the LEGAD, particularly in multinational missions, where the interpretation of international obligations, domestic laws and policies of the contributing nations will require careful consideration. Changes in the legal mandate or evolution of the mission are challenges which will require LEGAD advice on continued compliance with

³³ See paragraph 108.

applicable laws, and the adequacy, or need for change of, existing ROE. A deployed commander is likely to rely on his LEGAD to guide him through such considerations. Where it has been identified that ROE are incompatible or insufficient to fulfil a particular mission, perhaps in view of a changed mission or threat, the LEGAD must work closely with J3 and J5 to present the commander with well justified requests to change the ROE, ensuring that the changes are consistent with the legal framework.

128. Use of Force in Self-Defence. Unless the use of force in accordance with LOAC has been approved, lethal force may only be used by members of the UK Armed Forces in self-defence in accordance with English Common Law and/or Section 3 of the Criminal Law Act 1967.³⁴ The LEGAD will play a key role in ensuring that the chain of command is aware of the circumstances in which such force can be used. The law of self-defence extends to the defence of others. The LEGAD has a crucial role in proactively educating the inherent right of self-defence until the commander and his force are instinctively comfortable and confident with it. ROE are separate from self-defence, and must not be confused with it.

129. Basic Principles in Use of Force – LOAC. Operations entailing the use of force in an armed conflict must conform to some basic legal principles,³⁵ namely military necessity, humanity, distinction, and proportionality, and these principles must be at the forefront of the LEGAD's mind when force is proposed.³⁶ The LEGAD will again play a key role in ensuring that the chain of command is aware of the circumstances in which force can be used lawfully, and how these principles are to be applied.³⁷

a. **Military Necessity and Humanity.** Military necessity permits a state engaged in an armed conflict to use only that degree and kind of force, not otherwise prohibited by the law of armed conflict, that is required in order to achieve the legitimate purpose of the conflict, namely the complete or partial submission of the enemy at the earliest possible moment with the minimum expenditure of life and resources. The principle of military necessity is often counterpoised with the principle of humanity, which imports general duties such as avoiding

³⁴ See further Section 76 of the Criminal Justice and Immigration Act 2008 for statutory approach to reasonableness of degree of force and the reasonableness and genuineness of belief as regards circumstances necessitating self-defence. The LEGAD will also be aware of the implications of the European Convention on Human Rights, especially Article 2 relating to the right to life.

³⁵ The 4 principles are paraphrased here for convenience. For a detailed statement of the principles see Joint Service Publication (JSP) 383 *Joint Service Manual of the Law of Armed Conflict* Chapter 2.

³⁶ The same legal considerations arise, not only in relation to the use of kinetic force, but apply equally to the application of non-kinetic force, e.g. in the context of information operations such as the jamming of media broadcasting or degrading an adversary's computer networks.

³⁷ See further paragraph 214.

inflicting superfluous injury or unnecessary suffering³⁸ or protecting those rendered *hors de combat*³⁹ such as the wounded, sick or shipwrecked.

b. **Distinction.** Offensive action must only be directed against military objectives. They are: '*those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage*'.⁴⁰ Civilians and civilian objects⁴¹ must not be attacked. In case of doubt, all objects and persons are presumed to be civilian. It is the duty of attackers to take all feasible precautions to discriminate in planning or deciding upon an attack, even to the point of cancelling or suspending an attack and warning the civilian population that may be affected by an attack.⁴² Feasible precautions are 'those precautions which are practicable or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations'.⁴³ Military commanders and others responsible for planning, deciding upon, or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is reasonably available to them at the relevant time.⁴⁴ Indiscriminate attacks are prohibited. Indiscriminate attacks are those that are not directed at specific military objectives, those that employ a method or means of combat that cannot be directed at a specific military objective, and those that employ a method or means of combat the effects of which cannot be limited.⁴⁵ Consequently, indiscriminate attacks are those that strike military objectives and civilians, or civilian objects, without distinction.

c. **Proportionality.** The principle of proportionality imposes a duty not to proceed with an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation

³⁸ Additional Protocol (AP)1 Article 35(2).

³⁹ AP1 Articles 41 & 45. A person is *hors de combat* if he is (1) a Prisoner of War, or (2) he clearly expresses an intention to surrender, or (3) he is rendered unconscious or is otherwise incapacitated by wounds or sickness, and is therefore incapable of defending himself.

⁴⁰ AP 1 Article 52(2).

⁴¹ 'Civilian Objects' are all objects which are not military objectives. See JSP 383.

⁴² AP 1 Article 57(2)(a)(iii), (b) & (c).

⁴³ UK Statement (b) on ratification of AP 1.

⁴⁴ UK Statement (c) on ratification of AP 1.

⁴⁵ AP 1, Article 51(4).

to the concrete and direct military advantage anticipated.⁴⁶ A disproportionate attack is also considered to be indiscriminate.

Targeting

130. The targeting process is designed to subject targeting operations to careful scrutiny to ensure that they are necessary to achieve the objectives of the campaign, and that they meet the strict requirements of international law governing the conduct of military operations.⁴⁷ The operational LEGAD plays a key role in the targeting process⁴⁸ and brings his thorough knowledge of the legal rules governing fires and influence activities⁴⁹ to the targeting process, for example, by informing the staff on restrictions relating to special categories of civilian objects and personnel, damage to the environment and particular methods of warfare. In a state of international armed conflict the UK is legally bound to apply Additional Protocol I to the Geneva Conventions in targeting, while in a state of non-international armed conflict, UK Armed Forces are directed, as a matter of policy, to apply the same provisions. The LEGAD's role is crucial in ensuring that targeting is conducted lawfully, and in such a manner that the decisions made can withstand subsequent scrutiny.

131. The wide utility of influence activities extends the need for legal conformity beyond LOAC. The LEGAD should scrutinise influence activities carefully to ensure compliance with applicable law.⁵⁰

132. **Escalation of Force.** A common thread in operations against irregular forces in armed conflicts is the difficulty in distinguishing emerging threats from the pattern of normal life in the civilian population. It is imperative that in such circumstances force (particularly lethal force) is applied on a firm legal basis, whether in self-defence or the attack of positively identified enemy forces. Civilian deaths and injuries may damage campaign authority. Appropriate escalation of force measures may therefore be critical to mission success, including force postures, deterrents, less than lethal effects and warnings. Many such effects are adapted from other capabilities or means of warfare, and each operating environment forces innovation. The commander must not employ novel weapons, or new means or methods of warfare without prior Development Concept and Doctrine Centre (DCDC) legal review in accordance with the UK's international obligations.⁵¹ The LEGAD is responsible for bringing this requirement to the commander's attention. Where

⁴⁶ AP 1, Article 51(5)(b), Article 57(2)(a)(iii), and Article 57(2)(b).

⁴⁷ JDP 3-00 (3rd Edition), paragraphs 3B3-3B4.

⁴⁸ JSP 900 *United Kingdom Joint Targeting Policy*.

⁴⁹ See for example JSP 383 *Joint Service Manual of the Law of Armed Conflict* Chapter 5.

⁵⁰ JDP 3-00 (3rd Edition), paragraph 3B6.

⁵¹ Legal Review of new weapons, means or methods of warfare as required by AP 1, Article 36, see 2009 DIN 04-217, *Legal Review of Newly Acquired or Developed Weapons and Associated Equipment*.

such a capability is approved, the deployed LEGAD can expect to be engaged with other staff branches in the process of identifying and developing Concepts of Operations and Tactics, Techniques and Procedures for force escalation measures appropriate to the physical environment.

133. **Accountability.** Not only the commander but also individual members of the armed forces are accountable for their actions on operations. The LEGAD has a vital role in guiding the commander and his subordinates on their accountability. The LEGAD may also be called upon to advise the commander in relation to civil liability of the force or individual personnel, for example in accordance with the terms of a SOFA, and in relation to liability under domestic legislation.⁵²

134. **Service Investigations.** Where there is any evidence of a breach of the law or a significant breach of ROE, or where the use of force by UK personnel results in the death or injury of civilians, a Service investigation is required. The nature, extent, breadth and consequences of each incident will dictate which type of investigation is necessary, as a matter of law and/or policy. The spectrum includes Service police investigations, through Service Inquiries, to in-theatre post-incident analysis supported by shooting incident reports. The type of investigation required in any particular case will depend most heavily on the precise circumstances of that incident. Accordingly, where there is a suspicion that a criminal act may have been committed, a Service police investigation will probably be necessary,⁵³ but it is incumbent on all commanding officers to consider whether any incident triggers their legal obligation to make sure the Service police are made aware.⁵⁴ In some circumstances, more than one type of investigation will be appropriate, or even required.⁵⁵ In other circumstances, investigations by non-Service authorities will be conducted.⁵⁶ The decision on the most appropriate procedure for investigating an incident will invariably be informed by detailed police and legal advice. The LEGAD must be called upon to advise the commander, J1, and, where appropriate, the Service police on the appropriate course of action to be followed, and procedures to be complied with. The LEGAD may be required to liaise with PJHQ and single-Service LEGADs in formulating this advice. In serious cases,⁵⁷ legal advice to the Service police should come from the Director of Service Prosecutions.

⁵² For example, the *Human Rights Act 1998*.

⁵³ See JSP 832, *Guide to Service Inquiries*, paragraphs 1.20 -1.27.

⁵⁴ *Armed Forces Act 2006*, Sections 113 -115.

⁵⁵ For a detailed analysis of the relationship between Service Inquiries and other investigations, see JSP 832, paragraphs 1.19 - 1.27 and Annex B.

⁵⁶ See further JSP 832 paragraphs 1.20 -1.27.

⁵⁷ Offences set out in Schedule 2 of the *Armed Forces Act 2006*, or those offences committed in prescribed circumstances (Section 114 of the *Armed Forces Act 2006*).

Detention

135. The Geneva Conventions and Additional Protocol I govern the obligations applicable when handling CPERS during an international armed conflict. In operations which do not form part of an international armed conflict, a number of international obligations may nevertheless be applicable, for example, the International Covenant on Civil and Political Rights and the UN Convention Against Torture, Additional Protocol II, and Common Article 3 of the Geneva Conventions. Host nation law may also be relevant. In addition, wherever in the world they operate, UK armed forces are subject to Service law and English criminal law. The scope of the extra-territorial application of the European Convention on Human Rights is still being clarified in our domestic courts and in the European Court of Human Rights, and the LEGAD should seek guidance from PJHQ on the impact of these cases.

136. As a matter of policy the MOD may impose higher constraints upon the armed forces than is legally necessary for detention activities, as for any other type of operation. The role of policy in operations must be understood so as to be able to distinguish policy from legal obligations. A commander may, for example, seek policy changes, but all legal obligations remain mandatory. Detailed Joint doctrinal guidance on CPERS may be found in JDP 1-10 *Prisoners of War, Internees, and Detainees*.⁵⁸ LEGADs are crucial to the effective running of CPERS handling facilities,⁵⁹ and will play an important role in procedures to determine the status of individuals. CPERS may not be held on an arbitrary basis, and the LEGAD and J1 staffs may assist in running any required CPERS review hearings in order to consider whether continued custody is justified. They can also offer advice on the legality of all aspects of CPERS handling, such as discipline and handing persons to host nation authorities, and should be consulted frequently, and early on. Supplementary training in-theatre can be provided by the LEGAD. The LEGAD must always be consulted in the event of there being an allegation of mistreatment.

137. **Exploitation Activities and Information Sharing.** Many operations will rely on the exploitation of human, forensic, biometric, signal and other intelligence in order to counter threats and support other lines of operation. Some UK legislation directly applies to the activities of UK forces on operations. Where legislation does not apply to the armed forces on operations abroad as a matter of law, policy may have been developed to replicate the legislative arrangements in suitably adapted form in order to provide appropriate control and supervision of the activity, and to facilitate the transfer of collected data back to the UK and the sharing of data with Coalition

⁵⁸ See also JDN 2-09 *Material and Personnel Exploitation*.

⁵⁹ JDP 1-10 *Prisoners of War, Internees and Detainees* paragraph 2A3f.

partners. The Data Protection Act 1998 and MOD's data protection policies developed from that Act are central to such considerations. Host nation law may also be a factor in identifying the freedoms and constraints of exploitation activities. The LEGAD should seek guidance from PJHQ on the UK position relating to the extra-territorial application of the European Convention on Human Rights. If the legal framework for exploitation activities and information sharing has not been clearly established before the commencement of operations, the LEGAD must work closely with the commander as *ad hoc* issues arise. The commander and his J2 staff should set out what they want to do, and the LEGAD must analyse any legal issues and guide the commander and his J2 staff to work legally workable solutions, or be able to articulate a restriction or prohibition. The LEGAD will consider all of these issues when providing advice in relation to the commander and his staff, including J2.

138. Surveillance and Covert Human Intelligence. Covert human intelligence and surveillance operations conducted by the armed forces are planned, authorised, executed and recorded in a manner consistent with UK legislation, principally the Regulation of Investigatory Powers Act 2000. Although that Act does not apply to overseas operations as a matter of law, policy has been developed to replicate it in suitably adapted form in order to provide appropriate control and supervision of the activities. The Regulation of Investigatory Powers Act requires, in particular, those authorising the use of covert techniques to give proper consideration to whether their use is necessary and proportionate. It strictly limits the people who can lawfully use covert techniques, the purposes for, and conditions in which they can be used, and how the material obtained must be handled. LEGADs and POLADs have clear roles within the authorisation and regulatory framework, providing advice to the commander and his staff, including J2.

139. Contractors on Deployed Operations. Recent operations have witnessed increased contracted support to the deployed force. Contractors on deployed operations are mounted within a formal legislative and policy framework (as described in JSP 567 *Contractor Support to Operations* and supporting documents) and a significant staff, including government legal services and legal advisers, supports deployed contracts and contractors from the UK. Additionally, there will be a significant number of contractors operating on MOD contracts who have not been deployed in accordance with contractors on deployed operations policy. For example, some contracts may be let by Civil Secretary officers within theatre. However, some issues may be appropriate for staffing and resolution within theatre, including the status of such personnel under any SOFA, discipline and contractual failings, as contractor employees designated under the Armed Forces Act 2006 will have

a military commanding officer. The deployed LEGAD, particularly if serving within a force support element, must expect to provide legal advice to his commander for such issues.

140. **Private Military and Security Companies.** Increasing reliance on private military and security companies adds complexity in relation to command, control, and issues of state and individual responsibility. Such companies may be directly contracted by MOD or other government departments or act in support of logistic contractors working for UK or coalition formations. The nature of the contractual relationship will influence the division of general and specific responsibilities held by the contracting state, the host state, and the state where the private military and security company is registered. The LEGAD will be expected to provide advice on such issues, particularly where the commander holds responsibility for the regulation or investigation of conduct of such companies within his area or supporting his formation.⁶⁰

Military Assistance to Civil Effect/Rule of Law

141. A full understanding of military assistance to civil effect is still being developed. Nevertheless, in a legal context it will include assistance to the civil authorities in their attempts to establish the rule of law in a failed or failing state. The rule of law is essentially the application of the law to all citizens without fear, favour or prejudice, and without fear of arbitrary punishment. Military assistance to civil effect/rule of law operations could potentially include securing the scene of a crime, laying down the procedures for an investigation, setting up a court, or ensuring the independent operation of the local judiciary. They could even involve the creation of an entire investigative and judicial process.

142. LEGADs may need to assist where necessary, whether in a logistic or legal capacity as the rule of law is integral to any society. LEGADs must be aware of the political and cultural sensitivities of the host nation. Notably, commanders and LEGADs alike should, where possible, make the most of the local elements and infrastructure.⁶¹ Advice on Military assistance to civil effect/rule of law should always take into account national policy, the policies of other coalition members, and the terms of any instruments issued by the United Nations. The LEGAD would accordingly expect to forge close links with the Foreign and Commonwealth Office (FCO) and Department for

⁶⁰ Subject to detailed rules relating to designation, private military and security company personnel can, in certain circumstances, be subject to Service discipline in accordance with the *Armed Forces Act 2006*, Schedule 15.

⁶¹ It should be noted that there is an obligation during occupation to respect the laws in force in the occupied territory unless absolutely prevented – Article 43 of the Hague Regulations annexed to HC IV 1907.

International Development (DFID) representatives in theatre in rule of law operations. Coordination between the armed forces and other states, non-state actors, non-governmental organisations or other government departments is an essential and a potentially difficult area where the personal as well as professional skills of a commander and his LEGAD will play a very important part. The commander may also expect to see his LEGAD working closely with indigenous court, police and prison authorities to mentor, build capacity and assist with security sector reform.

Status of Forces Agreements/Memoranda of Understanding

143. States will often agree arrangements which are applicable to the military forces of the sending state while they are deployed on foreign territory, namely that of the host nation. They include provisions such as the exercise of jurisdiction, liability and payment of claims, tax exemptions, the wearing of uniform, and the carriage of weapons. Such arrangements, if they have been formulated, are usually contained in a SOFA, but can also be contained in various documents such as an Exchange of Letters, an MOU,⁶² Technical Arrangements, or a treaty.⁶³

144. These various documents have differing legal implications. For example a treaty is legally binding at international law; it must be led by the FCO, ratified by Parliament and published. An MOU is not considered by the UK to be legally binding (although other nations do consider it to be so), but Her Majesty's Government policy is to always observe an MOU.

145. Given the importance of such documents to the conduct of an operation, the LEGAD may be required to participate in the negotiation and conclusion of such arrangements, particularly during the early stages of a campaign, or during the draw down phase. In such a situation, close liaison with PJHQ LEGADs, and possibly MOD Central Legal Services and FCO will be required, and the LEGAD should seek direction on this point. The LEGAD will provide detailed advice on the interpretation and practical application of the SOFA or other instrument, as well as procedures to be followed. The LEGAD, by liaising with PJHQ LEGADs must be aware of the UK's interpretation of any such instruments. In the event of a dispute arising in relation to the application of the instrument, the LEGAD is pivotal to providing advice to the commander, and may be called upon to assist the commander in negotiations with the host nation in order to resolve the problem. For example, host nation customs

⁶² An MOU is an arrangement between 2 participants which documents their understanding on certain issues. An MOU is the main form of document used within MOD to record international cooperative arrangements.

⁶³ A treaty is an international agreement concluded between States (or other subjects of international law such as international organisations) in written form and governed by international law, whether embodied in a single instrument or in 2 or more related instruments and whatever its particular designation.

officials may have refused to allow coalition supplies to enter the country. This event may limit the commander's intended courses of action; the LEGAD along with J4 must deliver a solution for the commander, liaising with the FCO representatives in theatre and PJHQ as appropriate.

Jurisdiction and Conflict of Laws

146. The question of jurisdiction is critical for military forces deployed to a foreign territory. It is invariably an integral part of a SOFA and such arrangements will vary from theatre to theatre and indeed from time to time. It may well be that for short notice operations no SOFA or similar arrangement exists. In the absence of such an instrument or the conferring of any special status,⁶⁴ personnel enter a country at some legal risk.

147. The jurisdictional provisions will establish the requisite authority to exercise discipline or criminal jurisdiction over a serviceman who commits an offence while deployed; the provisions will determine who can arrest, detain, prosecute and sentence the serviceman. They also ensure that any accused will be given the appropriate rights and protections. The question as to who will exercise jurisdiction may be clear if the sending state has *exclusive* jurisdiction i.e. for offences punishable by its law but not the law of the host nation. This could be a potential problem in countries which criminalise behaviour which is not considered criminal in the UK; for example homosexuality or displays of intimacy in public. However, the situation becomes far more complex when there is concurrent jurisdiction, and the military authorities of the sending state and the host nation both have a right to exercise jurisdiction over the individual. Consideration will then need to be given to the right of *primary* jurisdiction. Again, where appropriate, this should involve engagement with the FCO representatives in theatre and PJHQ staff.

148. The LEGAD must know what jurisdictional arrangements are in place and whether or not they are adequate, or at the very least brief all personnel on the jurisdictional position. In particular, he should make the commander aware of provisions of host-nation law which are culturally different, which UK armed forces would not be instinctively aware of, and which could accordingly lead to personnel committing criminal acts through ignorance. Additionally, the LEGAD must be available to interpret the arrangements and advise on who will exercise jurisdiction in any particular case. In the event that an offence is committed, legal advice will be required immediately to ensure that the correct procedures are followed; this is essential to protect the individual, especially if he is in custody.

⁶⁴ Such as administrative and technical status.

149. **Refugees/Asylum.** At sea and on land, UK armed forces may be confronted with locals who claim refugee status or ask for asylum. Formation or divisional headquarters or warships at sea are not legally empowered to grant asylum, and by coming under the control of UK armed forces, refugees and asylum seekers do not gain a right to be advanced to the UK to have their claim heard. However, there may be an obligation upon the UK armed forces to take them to a safe place or not to return refugees and asylum seekers to the place they say they are fleeing from under the doctrine of *non-refoulement*.⁶⁵ Dealing with refugees and asylum seekers will likely present the commander an operational challenge; the LEGAD plays a central role in advising what, if any, legal obligations apply, and how practical problems may be lawfully solved.

⁶⁵ Non-refoulement has been described as “a concept which prohibits states from returning a refugee or asylum seeker to territories where there is a risk that his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion.” Sir Elihu Lauterpacht and D Bethlehem: *The Scope and Content of the Principle of Non-Refoulement: Opinion*.

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CHAPTER 2 – ADDITIONAL GUIDANCE FOR LEGAL ADVISERS

SECTION I – PROFESSIONAL COMPETENCIES

201. **Background.** Operational Legal Advisers (LEGADs) serving in the UK armed forces are qualified solicitors or barristers, whether recruited from civilian practice or trained as lawyers within the Services. In addition to the traditional Service lawyer specialities of criminal and administrative law, LEGADs may have further specialised in a number of areas including international law. The strength of the operational LEGAD on the joint staff is not only his specialist skill, but his generalist skill to advise across the breadth of operational law. It was noted in paragraph 103 that operational law is much wider than the Law of Armed Conflict (LOAC), it embraces the whole range of legal issues that impact on operations.

202. **Training.** Notwithstanding the emphasis that has been placed on generalist skills, the operational LEGAD must have a thorough grounding in international law, and particularly LOAC. It is the responsibility of the single-Service heads of legal services to ensure that LEGADs are properly trained in international law. The Services also provide focused training on specialist areas such as targeting and joint operational planning. Since the LEGAD at the operational and tactical level may play an important role in the targeting team he should complete training in these fields where appropriate. In essence, the LEGAD must be professionally current to perform his duties.

203. **Knowledge and Experience.** The LEGAD's academic training needs to be fused with his knowledge of the Service environment. Operational LEGADs are serving officers in the armed forces bringing general Service knowledge and experience to bear on their role with operational staff. Like all officers, they have single-Service roots, but the joint environment requires an understanding of all operational environments. The LEGAD must therefore understand the basic principles and practices of campaign planning and execution,¹ as well as having an appreciation of weapon and platform capabilities at the disposal of the commander. There is no shortcut to experience. Like other joint staff officers, the LEGAD should ideally be: Joint trained; experienced at working in an operational level headquarters; and preferably, also have had multinational experience. However, it should be appreciated that, being specialist staff, some LEGADs may not have had the advanced staff training which would be expected of other Joint staff officers of

¹ Joint Doctrine Publication (JDP) 5-00 (2nd Edition) *Campaign Planning* and JDP 3-00 (3rd Edition) *Campaign Execution*, JDP 01 (2nd Edition) *Campaigning*.

their rank and experience. Component commanders' LEGADs also need to understand the basics of how each component commander operates within the Joint Operations Area.

204. **Preparation.** The legal resources a deploying LEGAD will take into theatre are a compromise based on space and weight available in baggage, the LEGAD's own knowledge and experience, electronic and IT communications in the Theatre of Operations, and internet connectivity. It is not realistic to provide a definitive or specific list of resources, and LEGADs should consult widely within their command and with their own Service legal branches on what may be useful. The Service legal branches are responsible for making available a battlebox of relevant legal materials. Annex B provides a checklist for the LEGAD about to deploy.

205. **Campaigning.** Since the UK recognises that military operations are almost invariably Joint, multinational and inter-agency,² the LEGAD, to be effective, must be conversant with the basic principles of campaign planning and execution in deployed multinational³ and national Joint operations. The LEGAD new to the Joint environment will probably be unfamiliar with the force configuration, functions and terminology of the single-Services other than his own. Joint Doctrine Publication (JDP) 3-00 (3rd Edition) *Campaign Execution*⁴ provides a helpful introduction to the UK's 5 components (maritime, land, air, special forces and logistic) and how operations are integrated, coordinated and synchronised at the operational level.

206. **Campaign Management.** Campaign management is enabled through a series of groups, boards and meetings that, together, constitute the Joint Task Force Headquarters' (JTFHQ) campaign rhythm. A generic JTFHQ campaign rhythm can be found in JDP 3-00 (3rd Edition) Annex 3C. This states that it is imperative that the JTFHQ establishes a detailed schedule of meetings to ensure harmony with superior headquarters, harmony across the Joint Task Force, and the consistent and reliable participation of all elements of the JTFHQ. The campaign rhythm for the JTFHQ or National Contingent Headquarters'(NCHQ) LEGAD is governed by the headquarters' rhythm. Component Commander and Contingent Commander LEGADs will find that their campaign rhythm will depend on the framework of meetings and briefings of their headquarters. The LEGAD at the component level can expect the campaign rhythm to reflect, to a greater or lesser extent, the JTFHQ or NCHQ rhythms.

² JDP 3-00 (3rd Edition), paragraph 101.

³ JDP 3-00 (3rd Edition), Annex 1B.

⁴ JDP 3-00 (3rd Edition), Chapter 2.

Targeting

207. **Introduction.** The LEGAD needs to be conversant with the UK's targeting process as set out in Joint Service Publication (JSP) 900, *United Kingdom Joint Targeting Policy* in order to apply the legal principles intelligently. As the targeting process may account for a substantial amount of staff time, an understanding of the Joint action targeting process will allow the LEGAD to develop his own campaign rhythm.

208. **Components of the Targeting Process.** JDP 3-00 (3rd Edition), Annex 3B, *Joint Action Targeting Process*, Annex 3C *Joint Task Force Headquarters Groups, Board and Meetings*, JSP 900, *UK Joint Targeting Policy* and operation-specific Targeting Directives are essential reading for any LEGAD who is part of a targeting team. Some key components of the targeting process that the LEGAD needs to understand are:

- a. Directives.
- b. Target Lists.
- c. Deliberate Targeting Process.
- d. Accelerated Targeting.
- e. Target Approval in the Joint Operations Area.

209. **Directives.** The promulgation and dissemination of the strategic decision to commit UK armed forces were discussed in Chapter 1. Targeting is also set out in directives:

- a. **Chief of the Defence Staff's Targeting Directive.** The Chief of the Defence Staff's (CDS) Targeting Directive is an annex to CDS' Operational Directive to Chief of Joint Operations (CJO). It sets out in broad terms UK strategic and military objectives and priorities, constraints to be applied, acceptable target types, and defines delegated authority for the conduct of offensive operations.
- b. **Chief of Joint Operation's Targeting Directive.** CDS' Targeting Directive provides the basis of CJO's Targeting Directive to his subordinate commands. In practice, both directives are developed collaboratively to ensure consistency of approach.⁵ As the directive cascades down the chain of command it can become more prescriptive as permissions and delegated authorities are withheld, but it cannot become more permissive. A key aspect of CJO's Targeting Directive is

⁵ Joint Service Publication (JSP) 900, *United Kingdom Joint Targeting Policy* paragraph 13.

that it gives the Joint Task Force Commander (JTFC)/National Contingent Commander guidance on what authority is delegated to him for target approval within the Joint Operations Area.

210. **Target Lists.** Targets are placed on one of a number of specific lists. They are as follows:

a. **Master Target List.** The Master Target List comprises all potential targets within a specific Joint Operations Area. Each potential target in the Master Target List is placed on either the Joint Target List or No-strike List as described below.

b. **Joint Target List.** The Joint Target List is a list produced by Targeting and Information Operations informed by Defence Intelligence. The Joint Target List should be distributed across a wide range of Ministry of Defence (MOD) and other government departments for coordination of effects. Once an operation has been authorised, ownership of the Joint Target List passes to the Permanent Joint Headquarters (PJHQ).

c. **No-strike List.** The No-strike List is a list of those objects or locations that are particularly sensitive, legally, politically, or for other reasons, were they to be deliberately or inadvertently damaged by own force actions. Objects on the No-strike List are not to be targeted and should be protected from attack using all means practicable.

d. **Restricted Target List.** The Restricted Target List is a list of military objectives, which due to special considerations, require temporary protection from attack. Although they may be valid military objectives their disruption may have an adverse effect on other military options.

e. **The Joint Integrated Target List.** The Joint Integrated Target List is produced by JTFHQ's J3 Targets. It is derived from targets on the Joint Target List and any additional operational and tactical level targets not on the Joint Target List but submitted by components.

f. **The Joint Integrated Prioritised Target List.** The Joint Integrated Prioritised Target List prioritises the targets on the Joint Target List/Joint Integrated Target List in accordance with JTFC's direction and priorities. It will be approved by the JTFC at the Joint Coordination Board.

g. **The Target Nomination List.** The Target Nomination List is the list of targets to be attacked kinetically within the targeting cycle. The

Target Nomination List is confirmed by the Joint Fires Working Group and endorsed by the Joint Force Commander. Any task or asset conflicts identified at the Joint Fires Working Group are resolved at the Joint Effects Meeting or Joint Coordination Board.

211. **Deliberate Targeting Process.** The deliberate targeting process is built round daily meetings.

a. **Joint Effects Meetings.**⁶ The Joint Effects Meeting is a staffing board whose role is to ensure that activity and influence including the joint fires process (which includes targeting) takes full account of the JTFC's prioritised objectives within the overall campaign plan. It is also responsible for the coordination and deconfliction of JTFC-controlled assets. It will produce the daily Target Nomination List from the Joint Integrated Prioritised Target List for later approval by the Joint Coordination Board. The LEGAD has an active role in advising upon the legality of targets prior to presentation to the commander. The LEGAD should use this opportunity to rehearse with J2/J3 staffs the questions and issues that the commander is likely to raise at Joint Effects Meetings. These meetings, chaired by the commander or his delegate, convene prior to the Joint Coordination Board to inform that meeting. The LEGAD attends this meeting to assist the commander. Having determined the effect to be achieved, Joint Effects Meetings will determine the actions necessary to achieve the effect and will recommend how best to prosecute the target. They are also responsible for the coordination/de-confliction of JTFC controlled assets, legal issues and clearance procedures for new target proposals. LEGADs in the various component commands play an active role in the component commander's own target nomination board and apply the same legal principles. The JTFC/National Contingent Commander takes advice from his component commanders and, through the Joint Effects Meeting process, sets priorities, provides targeting guidance and determines the weight of effort to be applied to achieve campaign objectives.

b. **Joint Coordination Board.**⁷ The Joint Coordination Board is an operation synchronisation meeting used to promulgate the JTFC's guidance and objectives to component commanders. It is the method of ensuring unity of effort. The Joint Coordination Board gives the JTFC the opportunity to consider and determine targeting issues at his level. The primary targeting functions of this Board are to review and

⁶ JDP 3-00 (3rd Edition), paragraph 3B16(b).

⁷ JDP 3-00 (3rd Edition), paragraph 3B16(d).

confirm the JTFC's guidance and objectives; review the Joint Integrated Prioritised Target List to ensure that it reflects the JTFC's campaign plan and is in line with Her Majesty's Government's objectives; approve component commander's apportionment recommendations; and approve the Target Nomination List for the next 24 hours.

212. **Accelerated Targeting.** Accelerated targeting is conducted against targets identified, but not located during the planning phase of operations, and includes 2 types of targets: time-sensitive targets and dynamic targets.⁸ In cases where a reaction may be required or demanded in a matter of hours, or even minutes, the deliberate targeting process using the Joint Effects Meetings and Joint Coordination Board has to be supplemented by other procedures:

- a. **Time Sensitive Targets.** Time sensitive targets are those targets requiring immediate response because they represent a serious and imminent threat to friendly forces or are high payoff, fleeting targets of opportunity. They follow the same authorisation procedures as deliberate targets, but the procedures are expedited to reflect their fleeting nature.
- b. **Dynamic Targets.** A dynamic target is a target identified within the current Air Tasking Order cycle that was previously unanticipated or is newly detected, and is of such significant importance that it should be struck within the Air Tasking Order period.

Target Approval in the Joint Operations Area

213. The degree of delegated authority given to the JTFC/National Contingent Commander to engage targets will depend on the operation and can be politically sensitive. However, it is inevitable that there will be targets that require clearance at the strategic level. In order to meet this imperative, the JTFHQ Targeting Cell must support a timely target clearance procedure in close cooperation with all other agencies involved. Where the UK is in support of a multinational Joint Task Force, an important advisory duty for the National Contingent Commander is to apprise the JTFC of the UK's approval process. At component command level, the LEGAD should be advising component command target boards on the lawfulness of the targets being nominated for inclusion in the Joint Integrated Target List. The component command LEGAD

⁸ Note: the term emerging target may also be heard in the targeting process. An emerging target is a target that meets sufficient criteria to be considered and developed as a target. The criticality and time sensitivity of this potential target is initially undetermined and may be subsequently dealt with as either a time sensitive target or dynamic target, or put back into the deliberate planning process for component action.

should anticipate the questions and issues which the JFHQ is likely to ask, and advise on resolving such targeting issues at an early stage.

214. While the JTFC/National Contingent Commander may only act within the bounds of his delegated authority, he is not absolved of his responsibility to clear targets in theatre at the time of the attack, notwithstanding any prior sifting of target folders from higher authority.⁹ This necessarily follows from the principle of distinction which places a legal duty on those who plan or decide attacks to discriminate between military objectives and civilian objects, combatants and civilians, and to take all feasible precautions.¹⁰ It is also a matter of common sense, because until a campaign is underway it is not possible to state accurately what the collateral damage will be and what military advantage is to be gained from attacking a particular target. The practical implication for the operational LEGAD is that he needs to raise the awareness of the targeting cell that they should not work on assumptions, outdated information or superficial reports. Instead they should drill down for up-to-date, relevant information, and understand the intelligence basis on which target proposals are made. The targeting process must determine the target's status as a military objective, and the military advantage in attacking it, **at the time that the attack is authorised**, which will be some time after it has passed scrutiny at the higher level targeting boards.

215. The decision to use fires and influence activities lies with the commander. The LEGAD will advise and assist the commander in making that decision, setting out the legal principles for him and advising whether the proposed course of action is within the acceptable boundaries of military necessity, distinction, humanity and proportionality, and any other relevant rules of international law. However, the LEGAD's role is just that – advisory; the LEGAD is not the decision maker.

Potential Pitfalls

216. The LEGAD should consider, come to terms with, and prepare for a number of potential pitfalls before deploying:

- a. There is a potential for the LEGAD's role to be viewed as an obstacle, rather than an enabler. This risk will be reduced by conveying advice using language that is readily understood by the commander and other operators. The LEGAD must also learn how to provide potentially unpopular advice, for example that a proposed course of action is unlawful, and to set out lawful alternatives. As highlighted in Chapter 1, it is also important for the LEGAD to have healthy

⁹ JSP 900, *United Kingdom Joint Targeting Policy*, paragraph 41.

¹⁰ Additional Protocol 1 Article 57.

professional relationships with the commander and his other staff - the ability to work harmoniously is crucial.

b. The LEGAD should expect tremendous tensions when involved in scenarios which demand the use of lethal force, particularly when the use of force only occurs rarely.

c. The LEGAD should be aware of the possibility of differences arising between contributing nations owing either to differing interpretations of the same provision, or ill-aligned views on the way to proceed in any given situation. Liaison with coalition counterparts is important in order to harmonise understanding of multinational legal issues and to understand where differences and caveats exist.¹¹

d. There may be comparatively little which is codified in agreed procedures, particularly in the early stages of a campaign. Accordingly, the LEGAD may have to assist in the formulation and establishment of such procedures.

e. Like the commander, the LEGAD can also be a lone individual in comparison with most members of the command group who have a number of staff. The LEGAD must expect stresses and seemingly novel situations; hybrid situations will demand the ability to think on one's feet. The LEGAD can mitigate these challenges by preparing for likely situations in advance, understanding the legal framework in theatre, and by using reachback.

SECTION II – PROFESSIONAL LINKS

217. This section examines some of the LEGAD's most important professional links outwith the headquarters. Important links can be made with a wide variety of organisations from other government departments to non-governmental organisations.

218. **Reachback.** Reachback arrangements may be put in place where appropriate and where operational circumstances permit.¹² Reachback gives the deployed commander access to headquarters legal advice when a LEGAD is not deployed with the commander, or can be used to provide the deployed LEGAD with additional legal support. Typically, a LEGAD in a non-deployed headquarters will be designated as the deployed commander's point of contact for advice on emerging legal issues. Where reachback arrangements are envisaged and have been agreed by the commander, care must be taken to

¹¹ See further paragraph 219.

¹² The Permanent Joint Headquarters LEGADs are often the key element in any reachback arrangements.

ensure that reliable secure communications remain available throughout the operation. Reliance on reachback arrangements does not preclude the subsequent deployment of a LEGAD to the commander's staff should the circumstances or tempo of operations require it.

219. UK Legal Chain of Command Links. It is vital that LEGADs within the chain of command are in close and regular contact throughout an operation. The JTFHQ/NCHQ/PJHQ LEGAD has a pivotal role in a Joint operation, feeding information up and down the legal hierarchy at the various levels of command and coordinating the discussion, management and resolution of legal issues within the Joint Operations Area.¹³ LEGADs work for their commander and not for other lawyers, so there is no legal chain of command as such. As staff officers, however, they are expected to have desk level links with their counterparts in different areas of the Joint force structure, and there need to be channels of communication between LEGADs. In particular, the LEGAD at every level (component command headquarters, JFHQ, PJHQ and MOD Central Legal Services) needs to be aware of, and to cascade, the UK national position on a given issue, whether that is dictated by the law, by government policy or by a combination of both. It is important that the LEGAD ensures that his advice to the commander takes due account of the UK position. This applies not only for UK-led operations but also for operations where the UK is a participating nation. The linkages between PJHQ, the NCHQ and the various UK contingents within the multinational components are just as important as the lines of communication from PJHQ to the JTFHQ and the component command headquarters for a UK-led operation. Component command and National Contingent Command LEGADs should highlight important legal issues for the JTFHQ/NCHQ LEGAD, even if they are full command issues that are strictly outside the legal jurisdiction of the joint force commander, who exercises Operational Command only. This is to enable a clear picture to be compiled in the Joint Operations Area and to improve communications back to PJHQ and the MOD.

220. Alliance and Coalition Legal Advisers. UK participation in multinational operations is conducted under the auspices of a mandate, using forces allocated to either the North Atlantic Treaty Organization (NATO), different alliance arrangements, or on an *ad hoc* basis. When a multi-national operation is not led by NATO or the European Union, it is known as a Coalition Operation with member states known as coalition partners.¹⁴ Alliance and Coalition operations are highly likely to have a multinational legal presence arranged on a case-by-case basis to take into account the command structure,

¹³ The LEGAD contributes to daily reports and returns, e.g. Assessment Reports. See JDP 3-00 (3rd Edition), paragraph 343b.

¹⁴ JDP 3-00 (3rd Edition), paragraph 1B1.

the contributing nations and the nature of the operation. LEGADs need to establish close links with each other from an early stage in the planning of operations in order to achieve a common understanding, to resolve ambiguities and to highlight legitimate differences that need to be taken into account in the execution of operations. Procedural, tactical and technical differences may prevent force elements from working effectively together. An inability to communicate or exchange information can cause friction. Although all participants within a multinational force should adhere to common and consistent Rules of Engagement (ROE), agreed prior to a campaign, nations inevitably impose restrictions, which commanders must understand and factor into operations.¹⁵ LEGADs must therefore be alive to the possibility of such conflicts of interest. Embedded UK LEGADs in coalition headquarters may work to non-UK rules and procedures provided there is no conflict with their obligations under the UK's interpretation of international law, UK domestic law or UK policy for embedded personnel.

221. Links to Humanitarian Advisers and Non-governmental Organisations. The LEGAD versed in LOAC is well placed to understand the humanitarian interests and objectives of non-governmental organisations and to liaise with the Commander's Humanitarian Adviser, if one is deployed, on humanitarian issues. Although not a non-governmental organisation, the International Committee of the Red Cross (ICRC) is an important actor in the area of many operations, ranging from Peace Support Operations to armed conflict. The ICRC plays an important humanitarian role in armed conflict, being responsible for: operating the Central Tracing Agency; maintaining prisoner of war records; inspecting captured personnel facilities and providing relief; providing humanitarian assistance to the civilian population of countries in conflict; monitoring observance of LOAC; helping States to comply with LOAC; and generally working for fundamental human rights in areas on the periphery of armed conflict.¹⁶ The parties to a conflict are under an obligation to give the ICRC all possible facilities to enable it to carry out its humanitarian functions. The UK values a good working relationship with the ICRC, and the LEGAD should be one of a number of principal points of contact on the Joint Staff.

¹⁵ JDP 3-00 (3rd Edition), paragraph 1B4.

¹⁶ JSP 383 *The Joint Service Manual of the Law of Armed Conflict* paragraphs 16.13 & 16.14.

ANNEX A – LEGAL ISSUES

A1. As every operation is different, the legal issues which the Legal Adviser (LEGAD) may be expected to identify and deal with will vary from one operation to the next. Accordingly, no list can identify all of the issues which may arise in every operation. This Annex does not purport to provide an all-encompassing list, but it does seek to highlight the most common Law of Armed Conflict (LOAC) issues which may arise, as an aid to the deployed LEGAD. Should complex issues arise unforeseen during the course of an operation, it is essential that the deployed LEGAD coordinate with the Permanent Joint Headquarters (PJHQ) to obtain higher level direction.

General Matters

A2. The deployed LEGAD should have a thorough knowledge of the following general matters relating to the specific operation:

- Legal framework for operations.
- The categorisation of the conflict.
- Applicable international/national law.

Basic Principles

A3. In any operation where LOAC applies, the LEGAD must have a thorough knowledge and understanding of the basic principles of:

- Military Necessity.
- Humanity.
- Distinction.
- Proportionality.

Persons, Places, and Property

A4. In an operation, the legal status and special rules relating to specific categories of persons, places, and property may be of importance.

Persons	Places	Property
Combatants under Geneva Convention III and Additional Protocol 1. Non-combatants. Civilians accompanying armed forces. Direct participation in hostilities. Medical personnel. Religious personnel. Persons <i>hors de combat</i> . Prisoners of war/detainees/internees. Wounded, sick and shipwrecked. Journalists. Civilian population. Spies. Mercenaries.	Defended places. Undefended places. Natural environment. Protected areas.	Civilian objects. Specially protected. Objects and locations. Medical property. Cultural property.

Weapons

A5. Special rules relate to certain classes of weapons. It is important to be aware of these rules, not all of which will be applicable to other members of a coalition, and many of which have criminal sanctions attached to them:

Superfluous injury/unnecessary suffering rule.

Indiscriminate weapons rule.

Small arms projectiles.

Non-detectable fragments.

Poisoned weapons.

Anti-personnel landmines.

Other landmines.

Booby traps.

Other devices.

Incendiaries.

Laser weapons designed to cause permanent blindness.

Cluster munitions.

Chemical weapons and riot control agents.

Biological weapons.

Nuclear weapons.

Targeting and Tactics

Some key issues (and consequences) to consider when examining proposed courses of action and targeting are:

Targeting	Tactics	
Duty to verify military objectives. Feasible precautions to avoid or minimise civilian losses. Suspension or cancellation of attacks that may be expected to cause excessive civilian losses in relation to the concrete and direct military advantage anticipated. In cases of doubt, civilian status is presumed. Warnings. Methods and means of warfare. Superfluous injury and unnecessary suffering.	Psychological operations. Ruses of war and deception. Use of property. Confiscation. Seizure. Requisition. Contribution. Treachery and perfidy. Feigning wounds or sickness.	Feigning surrender. Misuse of status. Misuse of United Nations, Neutral or Protective emblems. Assassination. Espionage. Reprisals. Rules of Engagement and LOAC. Duties in occupation.

War Crimes

A6. The deployed LEGAD requires to have detailed knowledge of the law relating to war crimes and the procedures for dealing with allegations of war crimes, including:

- Definitions and examples of war crimes.
- Individual and command responsibility.
- Reporting and investigation.
- Trial and punishment.

Miscellaneous Issues

A7. Miscellaneous issues which a LEGAD may be called upon to advise on may include:

- War Trophies.
- Dealings with the International Committee of the Red Cross.

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ANNEX B – CHECKLIST FOR LEGAL ADVISERS

The operational Legal Adviser (LEGAD) should draw up a checklist to identify key issues, take actions and answer questions. The list below, which is far from exhaustive, contains some pointers:

	Considerations
Preparation and Deployment	<ul style="list-style-type: none"> • Arrange for appropriate security clearances. • Determine the legal basis for the operation. • Identify law applicable to the operation. • Obtain relevant authorising documents. • Obtain copies of Status of Forces Agreements, Memorandums of Understanding, Technical Arrangements, etc. • Consider whether any agreements need to be concluded. • Review Operations Plan for legal aspects. • Review LOAC and Rules of Engagement (ROE). • Consider augmentation of LEGADs. • Think through potential legal issues in operation. • Consult previous <i>Lessons Identified</i> reports. • Obtain Targeting Directive and practise time-sensitive targeting. • Check who counts as a combatant on the enemy's side. • Identify LEGADs in coalition/Alliance/multinational force. • Check plans for Captured Persons (CPERS). • Check arrangements for Service Inquiries. • Consider full command issues such as enforcement of Service discipline. • Check arrangements for war crimes investigations. • Identify Communication and Information Systems requirements having regard to who must be contactable, and classification.

	Considerations
Preparation and Deployment (Continued)	<ul style="list-style-type: none"> • Check LOAC education, training and identification of accompanying civilians. • Check medical and religious personnel are correctly briefed and identified. • Consider whether enemy needs to be notified in advance of change of use of assets or their adoption into armed forces. • Check arrangements for field hospitals and hospital ships. • Check provisions made to deal with population movement – internally displaced persons, refugees. • Consider legal arrangements for the termination or suspension of hostilities. • Consider transitional justice and human rights issues. • Consider arrangements for compensation and <i>ex gratia</i> payments. • Check instructions about war trophies. • Check that all members of the armed forces been issued with JSP 381 <i>Aide Mémoire on the Law of Armed Conflict</i>. • Pack LEGAD's battlebox.
Operations	<ul style="list-style-type: none"> • Establish links with the International Committee of the Red Cross and Non-governmental Organisations. • Ensure investigations are conducted promptly and thoroughly. • Keep commander advised on LOAC principles. • Work closely with units with responsibility for treatment and handling of CPERS. • Advise on establishment and procedure for Article 5 tribunals to determine PW status. • Keep ROE under regular review. • Coordinate regularly with other LEGADs. • Constantly refine deliberate targeting cycles and rapid reaction targeting.

	Considerations
Post-conflict/Occupation	<ul style="list-style-type: none">• Ensure local laws are respected unless absolutely prevented.• Consider whether local courts and officials are functioning properly.• Consider need for occupying power's courts and laws.• Ensure public and private property respected according to rules of international law.• Consider property dispute resolution procedures.• Ensure arrangements for security of CPERS comply with all applicable laws including international law.• Check all efforts being made to restore, and ensure, public order and safety.• Check that actions taken by occupying powers within the bounds of occupation law and relevant Security Council Resolutions.

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LEXICON

This Lexicon contains acronyms/abbreviations and terms/definitions used in this publication. Many of the terms and their definitions detailed in Part 2 are either *new* or *modified* following a recent review of this and other Capstone/Keystone doctrine.¹ The source of each term is shown in parenthesis. For fuller reference on all other UK and NATO agreed terminology, see the current edition of JDP 0-01.1 *The United Kingdom Glossary of Joint and Multinational Terms and Definitions*.

PART 1 – ACRONYMS AND ABBREVIATIONS

ACOS	Assistant Chief of Staff
AP	Additional Protocol to Geneva Conventions
BDD	British Defence Doctrine
CDS	Chief of the Defence Staff
CJO	Chief of Joint Operations
COS	Chief of Staff
CPERS	Captured Persons
CPT	Contingency Planning Team
DCDC	Development Concepts and Doctrine Centre
DCOS	Deputy Chief of Staff
DFID	Department for International Development
FCO	Foreign and Commonwealth Office
GC	Geneva Convention
HC	Hague Convention
HQ	Headquarters
ICRC	International Committee of the Red Cross
JDP	Joint Doctrine Publication
JFHQ	Joint Force Headquarters
JSP	Joint Service Publication
JTF	Joint Task Force
JTFC	Joint Task Force Commander
JTFHQ	Joint Task Force Headquarters

¹ This Lexicon also includes new/modified Terms/Definitions and Acronyms/Abbreviations extracted from JDPs 01 (2nd Edition) and 5-00 (2nd Edition).

LEGAD	Legal Adviser
LOAC	Law of Armed Conflict
MOD	Ministry of Defence
MOU	Memorandum of Understanding
NATO	North Atlantic Treaty Organization
NCHQ	National Contingent Headquarters
OT	Operations Team
PJHQ	Permanent Joint Headquarters
POLAD	Policy Adviser
PW	Prisoners of War
ROE	Rules of Engagement
SOFA	Status of Forces Agreement
UNSCR	United Nations Security Council Resolution

PART 2 – TERMS AND DEFINITIONS

Campaign

A set of military operations planned and conducted to achieve a strategic objective within a given time and geographical area, which normally involve maritime, land and air forces. (AAP-6)

Campaign Authority

The authority established by international forces, agencies and organisations within a given situation in support of (or in place of) an accepted (or ineffective, even absent) indigenous government or organisation. (JDP 01 2nd Edition)

Note: Campaign authority is the amalgam of 4 related and inter-dependent factors: the perceived legitimacy of the authorisation or mandate for action; the perceived legitimacy of the manner in which those exercising the mandate conduct themselves both individually and collectively; the degree to which factions, local populations and others accept the authority of those executing the mandate; and the degree to which the aspirations of factions, local populations and others are managed or met by those executing the mandate.

Command

The authority vested in an individual to influence events and to order subordinates to implement decisions. (BDD 3rd Edition)

Commander's Intent

A concise and precise statement of what a Joint Force Commander intends to do and why, focused on the overall effect the Joint Force is to have and the desired situation it aims to bring about. (JDP 01 2nd Edition)

Components

Force elements grouped under one or more component commanders subordinate to the operational level commander. (JDP 0-01.1)

Concept of Operations

A clear and concise statement of the line of action chosen by a commander in order to accomplish his mission. (JDP 0-01.1)

Contingency Plan

A plan which is developed for possible operations where the planning factors have been identified or can be assumed. This plan is produced in as much detail as possible, including the resources needed and deployment options, as a basis for subsequent planning. (AAP-6)

Contingents

Force elements of one nation grouped under one or more multinational component commanders subordinate to the Joint Task Force Commander. (JDP 0-01.1)

Contractors on Deployed Operations

A generic term relating to all civilian contracted personnel deployed in support of military operations. (JDP 0-01.1)

Directive

A military communication in which policy is established or a specific action is ordered. (AAP-6)

Dynamic Target

A Dynamic Target is a target identified within the current Air Tasking Order cycle that was previously unanticipated or newly detected, which is of significant importance to all components and should be struck within the Air Tasking Order period. These are generally dealt with by the components in the same manner as a time sensitive target, but might require clearance by the Joint Force Commander. (JDP 0-01.1)

Emerging Target

An emerging target is a target that meets sufficient criteria to be considered and developed as a target. The criticality and time sensitivity of this potential target is initially undetermined and may be subsequently dealt with as either a time sensitive target, dynamic target or as a target planned in the deliberate cycle. (JDP 0-01.1)

End-state

The political and/or military situation to be attained at the end of an operation, which indicates that the objective has been achieved. (AAP-6)

Full Command

The military authority and responsibility of a commander to issue orders to subordinates. It covers every aspect of military operations and administration and exists only within national services. Note: the term 'command' as used internationally, implies a lesser degree of authority than when it is used in a purely national sense. No NATO or Coalition commander has full command over the forces assigned to him since, in assigning forces to NATO, nations will delegate only operational command or operational control. (AAP-6)

Humanitarian Adviser

An individual appointed by the Department for International Development (DFID) to advise the Joint Task Force Commander on the civil and humanitarian aspects of ongoing operations and their implications on planning. (JDP 0-01.1)

Influence Activities

The capability, or perceived capability, to affect the character or behaviour of someone or something. (BDD 3rd Edition)

Joint

Adjective used to describe activities, operations and organisations in which elements of at least two services participate. (AAP-6)

Joint Commander

The Joint Commander, appointed by CDS, exercises the highest level of operational command of forces assigned with specific responsibility for deployments, sustainment and recovery. (JDP 0-01.1)

Joint Co-ordination Board

The Joint Co-ordination Board is an operation synchronisation meeting used to promulgate the Joint Task Force Commander's guidance and objectives to component commanders. It is his method of ensuring unity of effort. The board will review the Joint Integrated Prioritised Target List to ensure that it reflects the Joint Task Force Commander's Campaign Plan and is in line with Her Majesty's Government objectives. (JDP 0-01.1)

Joint Effects Meeting

The Joint Effects Meeting is a staffing board whose role is to ensure that the Joint Fires process (which includes targeting) takes full account of the Joint Task Force Commander's prioritised objectives within the overall campaign plan. It is also responsible for the coordination and de-confliction of Joint Task Force Commander controlled assets. It will produce the daily Target Nomination List from the Joint Integrated Prioritised Target List for later approval by the Joint Co-ordination Board. (JDP 0-01.1)

Joint Fires

Joint Fires is defined as kinetic attack co-ordinated or directed at the operational level by the Joint Task Force Commander/National Contingent Commander. (JDP 0-01.1)

Joint Force

A force composed of significant elements of two or more Services operating under a single commander authorised to exercise operational command or control. (JDP 0-01.1)

Joint Force Commander

A general term applied to a commander authorised to exercise operational command or control over a Joint Force. (JDP 0-01.1)

Joint Integrated Prioritised Target List

A prioritised list of targets, approved by the Joint Task Force Commander and maintained by a joint task force, which includes the Component Commanders' requirements. (JDP 0-01.1)

Joint Integrated Target List

A list of strategic and operational targets, coordinated by the PJHQ, to meet the Joint Commander's objectives. (JDP 0-01.1)

Joint Operations Area

An area of land, sea and airspace, defined by a higher authority, in which a designated Joint Task Force Commander plans and conducts military operations to accomplish a specific mission. A Joint Operations Area including its defining parameters, such as time, scope and geographic area, is contingency/mission specific. (JDP 0-01.1)

Joint Target List

A consolidated list of selected but unapproved targets considered to have military significance in the joint operations area. (JDP 0-01.1)

Joint Task Force Commander

The operational commander of a nominated joint force. (JDP 0-01.1)

Joint Task Force Headquarters

A purely national deployable joint headquarters of variable size commanded at the operational level by a Joint Task Force Commander. (JDP 0-01.1)

Lead Nation

A Lead Nation is one which assumes lead responsibility for the planning and execution of an operation, particularly retaining ownership of the Campaign Plan and Information Operations. The Joint Task Force Commander, staff, command, control, Communications and Information Systems structure, doctrine and logistic coordination of the force will be provided by one nation (the lead nation). Other nations can assign contributions to this force under a National Contingent Commander, with liaison officers, and might even fulfil some staff positions in the lead nation's staff. (JDP 0-01.1)

Military Objective

In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage. (Art 52, Protocol I Additional to the Geneva Conventions of 12 August 1949)

Multinational

Adjective used to describe activities, operations and organisations, in which forces or agencies of more than one nation participate. (JDP 0-01.1)

Operation

A military action or the carrying out of a strategic, tactical, service, training, or administrative military mission; the process of carrying on combat, including movement, supply, attack, defence and manoeuvres needed to gain the objectives of any battle or campaign. (AAP-6)

Rules of Engagement

Directives issued by competent military authority which specify the circumstances and limitations under which forces will initiate and/or continue combat engagement with other forces encountered. (AAP-6)

Target List

A tabulation of confirmed or suspected targets maintained by any echelon for information and fire support planning purposes. (AAP-6)

Target Nomination List

A list of targets, developed at Component HQs, submitted to the Joint Force Commander for approval by MOD and inclusion in the Joint Integrated Target List and Joint Prioritised Integrated Target List. (JDP 0-01.1)

Theatre of Operations

A geographical area defined by the military-strategic authority which includes and surrounds the area delegated to the operational commander within which he will conduct operations – known as the joint operations area. (JDP 0-01.1)

Time Sensitive Targets

Time sensitive targets are those targets requiring immediate response because they represent a serious and imminent threat to friendly forces or are high payoff, fleeting targets of opportunity. In practice, time sensitive targets are specific target sets designated by the Joint Task Force Commander. (JDP 0-01.1)

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