



Ministry  
of Defence

# Joint Doctrine Publication 1-10

## Captured Persons



Fourth Edition



# Joint Doctrine Publication 1-10 Captured Persons

Joint Doctrine Publication 1-10 (JDP 1-10) (4th Edition),  
dated September 2020,

is promulgated  
as directed by the Chiefs of Staff

A handwritten signature in black ink, appearing to read 'J. J. Anderson', with a long horizontal line underneath it.

Director Development, Concepts and Doctrine Centre

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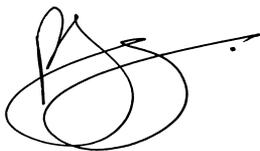
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# Foreword

Most conflicts throughout history have involved depriving numbers of people of their liberty – within legal and normative frameworks which have evolved over hundreds of years. Interstate conflicts have always generated their own challenges, particularly in relation to non-combatants. But in the modern world, the growth of complex non-international armed conflicts, accompanied by developments in human rights law, has exacerbated the challenges posed by detention to military practitioners and their political authorities, particularly those committed to the rule of law and an international rules-based order.

To this day it is essential that our own Armed Forces retain both the legal authority and the practical skills needed to capture and detain people as appropriate to the operations on which they are deployed. But it will remain part of the British tradition for our detention policies and practices to be challenged by the media and through our legal process – and for ministers to have to justify and defend in Parliament both our policies and our practices. To enable this, they need to have confidence in our ability to deliver and oversee effective and legally compliant detention policies and practical arrangements on the ground. The Detention Steering Group, which we co-chair, is a key feature in providing the necessary assurance to ministers and the Chiefs of Staff regarding the efficacy of our arrangements.

This latest iteration of JDP 1-10 represents the best efforts of Defence to set out clearly and in unprecedented detail how detention in all its forms should be approached by policy-makers and practitioners, tailored to the unique (and changing) requirements of individual operations. As ever, such a publication needs to be interpreted alongside a strong ethical sense; and through the lens of how we would wish our own people to be treated should they be subject to captivity.



Director National Security



Director Judicial Engagement Policy

Co-Chairs, Ministry of Defence's Operational Detention Steering Committee



# Preface

1. During the course of military operations, UK Armed Forces may capture and detain individuals, whether as prisoners of war, internees or detainees. The UK position is that in line with the Law of Armed Conflict (LOAC), also referred to as international humanitarian law (IHL), our Armed Forces may capture and detain individuals during an international armed conflict or a non-international armed conflict. They may also have the power to detain or intern individuals in other circumstances, including in accordance with a United Nations Security Council resolution or host nation law in conjunction with the consent of that nation. For the purposes of this publication, the generic term captured persons (CPERS) embraces all three categories. Irrespective of the category, all CPERS are legally entitled to be treated humanely; international and domestic law stipulates basic standards of treatment that are applicable to CPERS as a minimum in all circumstances and at all times. It is therefore essential that all UK Armed Forces personnel, and where appropriate contractors and those accompanying the force, understand and apply, at the very least, these basic standards of treatment.

## Purpose

2. Joint Doctrine Publication (JDP) 1-10, *Captured Persons* (4th Edition), is the capstone doctrine publication for all CPERS activities. It is based on all the legal frameworks governing CPERS and is, therefore, more prescriptive than most core joint doctrine. The 1949 Geneva Conventions and their 1977 Additional Protocols are the framework upon which this CPERS doctrine is based and where appropriate this has been extended from prisoners of war to detainees and internees.<sup>1</sup> JDP 1-10 (4th Edition) contains enduring principles and best practice, setting out guidance for the strategic level together with the fundamental rules and principles that apply at the operational level. Importantly, it also reflects the UK government's policy and guidance resulting from recent operations. This update incorporates changes following the 17 January 2017 Supreme Court judgments in three cases (*Serdar Mohammed*, *Yunus Rahmatullah* and *Abd Ali Hameed Al-Waheed*)<sup>2</sup> and the recommendations of the Al Sweady inquiry.

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1 In an international armed conflict treatment of detainees and internees is governed by Geneva Convention IV 1949.

2 For more information, see <https://www.supremecourt.uk/cases/uksc-2015-0218.html>.

3. JDP 1-10 (4th Edition) is not solely doctrine. It is a combination of doctrine and tactics, techniques and procedures, correct in law and in one document. This was a fundamental direction following the Baha Mousa Public Inquiry,<sup>3</sup> which was accepted in full by the government. Where particular operations require additional guidance or standard operating procedures to be issued by Permanent Joint Headquarters,<sup>4</sup> those should be supplementary to this JDP and should not deviate from the policies and procedures set out in this publication.

## Audience

4. JDP 1-10 (4th Edition) is written to assist those involved in planning, training for, and ultimately conducting CPERS activities. It has been revised, both in its structure and content. The first edition had to be read in conjunction with three publications (which were joint tactics, techniques and procedures publications), the contents of which were subsumed into the main body of the 2nd Edition. The 3rd and 4th Edition have maintained this position. The publication focuses more on the treatment to be afforded to all CPERS, rather than the specific categories. This JDP is understandably land focused as it is generally the more common environment for CPERS. However, it applies to all military operations.<sup>5</sup>

## Structure

5. After introducing the key themes, this publication sets CPERS activities into context. Chapters 1 to 6 cover enduring principles of CPERS doctrine. These chapters include information on:

- the basic standards of treatment that must be afforded to all CPERS at all times;
- medical treatment;
- responsibilities and governance; and
- training and planning for CPERS activities.

.....  
3 For more information, see <https://www.gov.uk/government/publications/the-baha-mousa-public-inquiry-report>.

4 Or other relevant Joint Force Commander.

5 Excluding the context referred to in paragraphs 1.5 and 1.6.

6. This edition of JDP 1-10 introduces some important new procedures to ensure the fair treatment of CPERS, particularly in relation to the review of detention. Those procedures have been developed in light of the cases mentioned in paragraph 2, and, in particular, the principles set out by Lord Sumption in *Serdar Mohammed*. In developing those procedures, the Development, Concepts and Doctrine Centre (DCDC) consulted widely with relevant stakeholders within Defence and looked at best practice amongst other democratic states. The work was informed by exchanges of opinion during a conference held in Shrivenham in October 2018, attended by military and government lawyers from states with recent experience of operational detention.

7. The second part of this publication continues by chronologically following the CPERS handling process from point of capture to transfer or release. Each chapter describes a different stage in the process, including details on the processes and procedures to be followed in the event of an adverse incident. Information management is a key theme running throughout the publication. To improve coherence and chronology, guidance on records that need to be maintained and documents to be completed are included at the various stages of the CPERS handling process.

## Linkages

8. **National and Allied.** All supplementary publications, subordinate instructions, planning activity and training must be consistent with JDP 1-10 (4th Edition) and updated in line with it. This publication should be read in conjunction with the North Atlantic Treaty Organization's (NATO's) Allied Joint Publication (AJP)-2.5, *Captured Persons, Materiel and Documents*, and Joint Service Publication (JSP) 383, *The Joint Service Manual of the Law of Armed Conflict*. This is not a repetition of the Geneva Conventions and Additional Protocols, which must, where they relate to the nature of the operation, be referred to as source material. Other linkages are referred to throughout the text.



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# Chapter 1

Chapter 1 introduces the fundamental principles our Armed Forces should abide by when dealing with captured persons.

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A commander's ethics, values, integrity, as well as physical and moral courage, create the authority required to inspire the confidence that CPERS will be treated with respect and humanity.

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## Chapter 1

# Fundamentals

## Section 1 – Background

1

1.1. During military operations members of the UK Armed Forces must be prepared to capture, detain or hold individuals for a wide variety of reasons. The treatment of these individuals is of critical importance, not only as a matter of law or policy, but also to lead to operational success. Legitimate conduct, including treatment of captured persons (CPERS), is an essential element of operational authority, which is itself a condition for long-term success.<sup>1</sup> An early example of this was illustrated in the Peninsular Wars, when Wellington demanded that his soldiers respect the religion, customs and property of Portugal and Spain. His orders secured the cooperation of the civilian population because of the high standards of behaviour he set for his forces; his considerate policy was rewarded with freely given local intelligence.<sup>2</sup>

1.2. Individual and collective behaviour is influenced by strong leadership. The commander's expression of intent and an instilled ethos of individual and collective responsibility, backed up by firm discipline, can deter unacceptable and illegal behaviour. A commander can delegate, but never abrogate, responsibility: failure to properly control subordinates risks abuses like those committed at Abu Ghraib and Camp Breadbasket, both of which seriously undermined campaign authority and created increased risk to both soldiers and the mission.<sup>3</sup> A commander's ethics, values, integrity, as well as physical and moral courage, create the authority required to inspire the confidence that CPERS will be treated with respect and humanity. The commander therefore plays an integral role in ensuring that individuals who have been deprived of their liberty are treated lawfully and humanely.

1.3. For the purposes of this publication, captured persons is defined as: the generic term given to all individuals who are captured and held by UK Armed Forces on operations overseas, whether they be prisoners of war, protected persons as defined in Geneva Convention IV, or detainees or security

1 Joint Doctrine Publication (JDP) 0-01, *UK Defence Doctrine*.

2 *The Dispatches of Field Marshal The Duke of Wellington*, Gurwood CB, Volume III, pages 43-44, 1852.

3 *Campaign Authority*, Air Commodore MP Colley, Monograph 2, 12 January 2009.

internees, whether or not the Geneva Conventions apply.<sup>4</sup> An individual becomes a CPERS as soon as a member of the UK Armed Forces deprives that individual of their liberty, or when they are transferred to our Armed Forces by another state or non-state actor. Deprivation of liberty is different to both restriction of movement and restriction of liberty: it involves exercising physical control over an individual.

1.4. Our Armed Forces may request that individuals remain temporarily in one place, perhaps for our forces' freedom of movement or force protection reasons (for example, on a warship for those found in distress at sea), but these situations do not amount to a deprivation of liberty. Factors which may indicate deprivation of liberty include using restraint to stop an individual moving, preventing a person leaving the scene or exercising control over an individual for a significant period of time. The individual will remain a UK CPERS until the point of release, at which point the CPERS will no longer be deprived of their liberty. If a CPERS is transferred to another responsible authority (including the host nation) they will no longer be a UK CPERS, although certain UK obligations and liabilities are likely to endure. If a CPERS escapes, they are no longer considered to be a CPERS. They will become a UK CPERS again if they are recaptured by, or transferred back to, our Armed Forces.

1.5. This publication does not cover any aspect of arrest or detention during policing, law enforcement or internal security operations within the UK (including internal waters, the territorial sea, or exclusive economic zone), other than reaffirming the prohibition of the five techniques outlined in Chapter 2, which apply in all operations. Such internal operations are governed by the relevant laws of the UK, not the Law of Armed Conflict and, therefore, separate advice must be obtained.

1.6. Joint Doctrine Publication (JDP) 1-10 is written for application in both international armed conflict and non-international armed conflict. Additionally, in certain circumstances, particularly in the maritime environment, detention may be authorised as part of operations other than armed conflict, for example, counter-piracy operations. JDP 1-10 remains authoritative in all environments. However, detention operations at sea are different in character and circumstance from those carried out purely on land, which is the primary focus of this JDP. Accordingly, the Royal Navy's Book of Reference (digital) (BRd) 9622, *Detention of Captured Persons in the Maritime Environment* (or its successor publications) sets out supplementary guidance to ensure the

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<sup>4</sup> This is a modified definition and will be updated in JDP 0-01.1, *UK Terminology Supplement to NATOTerm*.

objectives of this JDP are fully met at sea. These are to be followed during all detention operations in the maritime environment. If there is a conflict between BRd 9622 and JDP 1-10, the JDP is to be followed and BRd 9622's sponsor is to be informed.

International law lays down basic standards of treatment that are applicable as a minimum in all circumstances and at all times to all CPERS.

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1.7. During armed conflict, taking prisoners brings many practical advantages. It:

- reduces the enemy's numerical strength and fighting capacity;
- lowers the enemy's morale; and
- constrains the tactics of enemy commanders.

Similarly, during other types of operations, the capture of CPERS may bring advantages, such as stabilising the situation on the ground and enhancing force protection. CPERS may also be an important potential source of intelligence and, when specifically authorised, intelligence exploitation, including questioning of CPERS, is a legitimate military activity.

1.8. The status of an individual prior to capture will normally dictate the CPERS category to which they belong. CPERS normally fall into one<sup>5</sup> of the following categories:

- **prisoners of war** – members of the armed forces of a party to an international armed conflict<sup>6</sup> who are captured by the armed forces of the enemy;
- **security internees** – persons deprived of their liberty for imperative reasons of security in an international armed conflict or non-international armed conflict (non-criminal detention); or
- **criminal detainees** – persons deprived of their liberty on suspicion of having committed a criminal offence in an international armed conflict or non-international armed conflict.

.....  
5 These categories are not necessarily mutually exclusive.

6 Providing certain conditions are fulfilled, other persons are entitled to prisoner of war status (see paragraph 1.36) and even neutral states can be legally obliged to intern belligerent personnel (see paragraph 1.37).

1.9. Certain categories of CPERS are entitled to additional rights and protections and, therefore, our Armed Forces ultimately need to determine the status of CPERS to comply with applicable international law.<sup>7</sup> However, basic provisions relating to CPERS are the same regardless of status and category (see Section 5 for more detail regarding categorisation and status). Exercise of command responsibility to prevent violations and the obligation to investigate under international humanitarian law are addressed in Chapter 13.

1.10. By establishing a minimum level of treatment, the principles contained in this publication will enable our Armed Forces to deal with the majority of situations they encounter. While judgement is an important part of doctrine when it is applied, commanders should seek specialist staff, policy and legal advice if in doubt about how to apply this doctrine in unanticipated situations. Furthermore, the Permanent Joint Headquarters (PJHQ),<sup>8</sup> and where necessary, operational commanders must produce operation-specific standard operating instructions and procedures for CPERS activities based on this publication.

## Section 2 – Source of direction and guidance

1.11. Two key policy documents augment the law and provide governance for the conduct of CPERS, and related, activities. The first underpins this publication and the second reiterates the UK's opposition to torture and cruel, inhuman and degrading treatment, as well as to unlawful killing, rendition and lack of due process.<sup>9</sup>

- *MOD Strategic Detention Policy.*
- *The Principles: relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees (The Principles).*<sup>10</sup>

7 Our Armed Forces are bound by customary international law, treaty law (which the UK has ratified) and any other applicable international law which has been enacted into British domestic law.

8 For ease and consistency we have used the Permanent Joint Headquarters (PJHQ) throughout. However, whilst PJHQ will normally be the relevant operational command headquarters, this will not always be the case.

9 These documents will be periodically updated.

10 [The Principles: relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees](#), July 2019.

1.12. *The Principles* contains consolidated guidance to, amongst others, members of the UK Armed Forces and employees of the Ministry of Defence.<sup>11</sup> Although it relates primarily to intelligence sharing and individuals in the detention of foreign states, it emphasises that detainees held by UK Armed Forces must be treated humanely at all times. Furthermore, in no circumstances will UK personnel ever take action amounting to torture, unlawful killing, extraordinary rendition or cruel, inhuman and degrading treatment; and allegations of such conduct are taken very seriously and are investigated. In addition, the *Overseas Security and Justice Assistance (OSJA) Guidance*<sup>12</sup> provides guidance in relation to the UK's human rights obligations in the context of security or justice assistance to other nations.<sup>13</sup> An OSJA assessment is required prior to any Ministry of Defence (MOD) activity involving such assistance, which may be relevant to CPERS operations, including handling CPERS. *OSJA Guidance* provides a framework for considering the human rights implications of the MOD providing such assistance.

1.13. The *MOD Strategic Detention Policy*<sup>14</sup> sets out the minimum standards to be applied during all CPERS activities. It requires our Armed Forces to comply with a number of strategic principles to ensure all CPERS are treated humanely. It also establishes the requisite system of governance, including delegating the duty to ensure compliance with the MOD Strategic Detention Policy to the Chief of Joint Operations. Additionally, it establishes the Provost Marshal (Army) as the Army Competent Adviser and Inspectorate, and the Head of Capability Military Police as the Defence subject matter expert for operational detention on overseas operations.

1.14. These two policy documents contain express direction and instructions for CPERS activities. All commanders should be aware of their contents and include them in their planning. These documents are living documents and will be periodically updated. Furthermore, the Chairman's Report of the Baha Mousa Inquiry made several recommendations which have been accepted by the Secretary of State and incorporated into this publication.<sup>15</sup> Consideration must continue to be given to the Chairman's Report in any future revisions.

**Commanders have a responsibility to keep abreast of current CPERS policy.**

11 Ministry of Defence (MOD) departmental guidance is contained within 2020DIN03-007.

12 Updated by the Foreign and Commonwealth Office on 26 January 2017.

13 2018DIN03-004.

14 *MOD Strategic Detention Policy*, 2020.

15 *The Report of the Baha Mousa Inquiry*, 8 September 2011.

## Section 3 – Legal basis for captured persons activities

1.15. The legal framework that governs CPERS activities will vary widely depending on the legal basis for the operation and the nature of the conflict.<sup>16</sup> The legal basis for a military operation will normally derive from one or more of the following:

- state self-defence (whether individual or collective);
- a United Nations Security Council resolution (UNSCR);
- humanitarian intervention; or
- consent of the recognised government of the host nation.

Authorisation for CPERS activities may be expressly articulated or implicit in the wording of UNSCRs. Depending on the circumstances, the Law of Armed Conflict may or may not apply. In addition, the legal framework governing CPERS activities will provide additional guidance on the rationale for when a person may be captured.<sup>17</sup>

1.16. In any operation amounting to an armed conflict, our Armed Forces must comply with the Law of Armed Conflict (LOAC), also referred to as international humanitarian law (IHL).<sup>18</sup> For the purpose of this publication, the Law of Armed Conflict is defined as: those treaties, conventions, rules, regulations and customary international law that govern the conduct of hostilities and the protection of persons in enemy hands during an armed conflict and/or during a military occupation.<sup>19</sup> Territory is occupied when it is actually placed under the authority of external military forces. Occupation extends only to territory where that authority has been established and can, in fact, be exercised.<sup>20</sup> Whether there is a state of armed conflict is a question of fact, not a political or policy decision. The facts can change quickly. The UK government, following legal advice, will communicate its position to our Armed Forces.<sup>21</sup>

<sup>16</sup> See JDP 3-46, *Legal Support to Joint Operations*, 3rd Edition.

<sup>17</sup> In addition to the parties to a conflict, neutral states can in certain circumstances be legally obliged to intern belligerent personnel (see paragraph 1.37).

<sup>18</sup> Joint Service Publication (JSP) 383, *The Joint Service Manual of the Law of Armed Conflict*.

<sup>19</sup> This is a modified definition and will be updated in the JDP 0-01.1, *UK Terminology Supplement to NATOTerm*.

<sup>20</sup> JSP 383, paragraph 11.2.

<sup>21</sup> See JSP 398, *UK Manual of National Rules of Engagement*.

1.17. An armed conflict may be categorised either as:

- an international armed conflict; or
- a non-international armed conflict.

An international armed conflict is essentially an interstate conflict. A non-international armed conflict is a conflict that reaches a certain threshold of violence and is between the armed forces of a state and one or more organised armed groups, or fighting between such organised armed groups. It does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. In an international armed conflict all CPERS activities will be governed by the 1949 Geneva Conventions and the First 1977 Additional Protocol I to those Conventions (Additional Protocol I). In a non-international armed conflict, as a minimum, however, Common Article 3 of the Geneva Conventions applies; and in cases where specific criteria are met, Additional Protocol II applies.<sup>22</sup> In line with both the consensus expressed by 169 states and 185 national societies at the 2015 International Conference of the Red Cross and Red Crescent<sup>23</sup> and the views of the ICRC,<sup>24</sup> the UK believes that states have in all forms of armed conflict a power to detain under IHL.

1.18. During all other types of operations, such as peace support operations or maritime interdiction operations, our Armed Forces must comply with the applicable international, UK and foreign national law, including host nation law. While the Law of Armed Conflict may not apply to all operations, as a matter of policy, our Armed Forces will, as far as is practicable, comply with the spirit and principles of the Law of Armed Conflict, including the Geneva Conventions and Additional Protocols.

.....  
22 Additional Protocol II 1977 (AP II) only applies to armed conflicts which take place in the territory of a 'high contracting party' between its armed forces and dissident armed forces or other organised armed groups which, under responsible command, exercise such control over a part of the territory as to enable them to carry out sustained and concerted military operations and to implement AP II.

23 The first preambular paragraph of the Resolution 1 provided: 'States have, in all forms of armed conflict, both the power to detain, and the obligation to provide protection and to respect applicable legal safeguards, including against unlawful detention for all persons deprived of their liberty...'

24 See paragraph 728 of the International Committee of the Red Cross' (ICRC's) revised commentary on the First Geneva Convention and paragraph 750 of the revised commentary on the Second Geneva Convention: 'Another view, shared by the ICRC, is that both customary and international humanitarian treaty law contain an inherent power to detain in non-international armed conflict.'

1.19. In addition to the Law of Armed Conflict, customary international law and various international human rights treaties may give rights to CPERS; these include, but are not limited to:

- regional conventions on human rights (for example, the European Convention on Human Rights);
- the International Covenant on Civil and Political Rights; and
- the United Nations (UN) Convention Against Torture.

The interpretation of these instruments can evolve over time. Both the Law of Armed Conflict and international human rights law require that CPERS are treated humanely and not subjected to abuse. Proper exercise of command responsibility to prevent abuse is required and an effective system must be put in place for investigating accusations of abuse or the death of a CPERS.

1.20. As an operation evolves, or new UNSCRs are passed, the type and nature of the conflict may change. A change in the type of conflict may well affect the legal basis for both the scope of CPERS activities and the categorisation of any CPERS. An example of this is provided by Operation Telic, which started as an international armed conflict, moved to a period of occupation but transitioned into a non-international armed conflict. Over a five-year period, the legal basis for operations in Iraq changed and at some stage virtually all categories of CPERS were held by our Armed Forces. A transition in the opposite direction is also possible. The maximum length of time a CPERS may be held by our Armed Forces will also vary widely for the same reasons and may range from a matter of hours to several years.

## Section 4 – Basic principles

1.21. **Personal responsibility.** The UK Armed Forces remain responsible for UK CPERS at all times including, in some circumstances, post transfer. This responsibility cannot be delegated outside of our Armed Forces.<sup>25</sup> Therefore, the handling of CPERS must always be specifically considered when planning and conducting military operations, whether in time of armed conflict or during other operations.

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 25 For example, in international armed conflict, Geneva Convention III 1949 (GC III), Article (Art) 39 states that: 'every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular forces of the Detaining Power'.

All CPERS must be treated humanely; basic standards of treatment are applicable as a minimum in all circumstances and at all times.

Details of the minimum standards of treatment for all CPERS can be found in Chapter 2.

1.22. **Humane treatment.** Whichever law applies in a specific operation, all CPERS (regardless of their status or categorisation) must be treated humanely in all circumstances and at all times. Our Armed Forces are responsible for the safety and protection of all UK CPERS and must therefore ensure that they provide the requisite standard of treatment to them.<sup>26</sup>

1.23. **Sound administration.** Ensuring we deliver the requisite standards of treatment also involves effective and efficient record-keeping. As well as conducting a campaign, our Armed Forces may be faced with the responsibility for large numbers of CPERS who must be accounted for, administered, detained and cared for. Unless we employ effective means of anticipating, managing and administering the additional burden imposed by CPERS, the conduct of operations will be adversely affected, and the UK will suffer considerable reputational damage and likely be challenged in domestic and international courts. The importance of ensuring accurate information management from the point of capture or assumption of responsibility is crucial. It is essential that accurate reports and returns are submitted for a number of reasons including, but not limited to, ministerial reporting, the requirements of the Investigatory Powers Commissioner in overseeing adherence to *The Principles*, assisting in establishing the facts when allegations are being investigated and to meet the requirements of the Geneva Conventions and the Additional Protocols.<sup>27</sup> All documentation relating to the detention of any person and to the running and conduct of any detention facility is to be catalogued and retained. Such cataloguing must include a note of the version number of the document to identify it chronologically should the document be subsequently updated. This is critically important as such documentation has proved to play a crucial role in answering allegations made against UK Armed Forces that have called into question our training, practices and policies relating to detention. All such items, once catalogued, are to be recovered to the UK periodically and archived in accordance with Joint Service Publication (JSP) 441, *Defence Records Management Policy and Procedures*.

.....  
26 See Chapter 2.

27 Specific guidance for managing human intelligence (HUMINT) data, including tactical questioning and interrogation records exists within DI ICSP/4-2-02-06-07, *MOD Policy on Defence HUMINT Data Management*, 10 February 2011.

1.24. **Legitimacy and campaign planning.** Abuse or mistreatment of any CPERS would normally amount to a criminal offence which would be investigated and reported to the prosecution authorities. Such action could also benefit an adversary by:

- forming the basis of powerful propaganda;
- undermining our credibility and that of any partner forces (including with the host nation and their allies);
- strengthening the resolve of the enemy; and
- acting as a very effective enemy recruiting tool.

Such abuse or mistreatment also erodes domestic support, invites international condemnation and makes abuse of any UK detainees in enemy hands more likely. Any abuse of CPERS may indicate a wider breakdown in the internal discipline and command of a unit or formation, in turn producing adverse consequences of its own.

1.25. **Reporting and accountability.** All alleged abuse or mistreatment of CPERS by UK or other armed forces must be immediately reported both through the chain of command to theatre headquarters, to PJHQ and concurrently to the Service police and the relevant legal adviser. Depending on the operation, PJHQ may also be required to notify ministers. All alleged abuses by our Armed Forces must be thoroughly investigated by our Service police and, where the appropriate authorities decide, disciplinary action will follow.<sup>28</sup> Perpetrators, and potentially their commanders, may face disciplinary or criminal proceedings under Service law, including trial in the Court Martial, a UK civilian court or, potentially, the International Criminal Court or an ad hoc international tribunal for war crimes.

1.26. **Thorough training.** Delivering appropriate training to all UK Armed Forces is key to operational success. CPERS activities must never be an afterthought that is planned and conducted on an ad hoc basis after operations have begun. This would not only risk improper treatment of CPERS but will also reduce the likelihood of obtaining any valuable intelligence from them.<sup>29</sup> Provost Marshal (Army) is the designated lead for designing, delivering and validating all CPERS training. With the exception of Military Annual

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28 See Chapter 4.

29 See Chapters 5, 6 and 11.

Training Test (MATT) 6 and CPERS Handling Drill,<sup>30</sup> Provost Marshal (Army) is to be informed of all CPERS training and requests to deliver it.

1.27. **Using subject matter experts.** CPERS activities of any description are inevitably complex and far-reaching and call for expertise across a range of military and other disciplines, both in the planning and estimate process and execution. Commanders must have specialist staff, such as the Force Provost Marshal, Military Provost Staff (MPS), Service police and policy and legal advice from both the single Service and MOD legal advisers at the earliest stages of planning and throughout the conduct of operations.<sup>31</sup>

1.28. **Review.** Whilst international humanitarian law contains detailed provisions and safeguards for the standards of treatment of, and authority to detain, prisoners of war, internees and detainees in international armed conflict,<sup>32</sup> there is less express provision in the law governing non-international armed conflict or operations other than armed conflict. In such operations, human rights considerations may be more relevant, as is the need to demonstrate to both domestic and other audiences the moral authority of the UK Armed Forces. In such situations, there is a need to demonstrate that safeguards are in place to ensure that deprivation of a CPERS' liberty is necessary and justified. Recent court decisions have required the MOD to ensure that, consistent with operational imperatives, there is an impartial and fair mechanism in place to review detention decisions. This edition of JDP 1-10 introduces a fundamental change in the process by which both internment and criminal detention is authorised and reviewed. It does so to reflect the findings and observations of the Supreme Court in January 2017,<sup>33</sup> which emphasised the need to have in place some basic principles essential to any fair process of adjudication. The role of the Detention Authority in authorising detention is now separate from that of an independent and impartial Detention Review Authority, who sits outside the operational chain of command. Annex 1C introduces the assisting officer, whose role is to help the CPERS to effectively participate in proceedings and present their case before the tribunal or Detention Review Authority.

.....  
30 *Close Combat – Survivability: Fieldcraft, Battle Lessons and Exercises*, Army Code 71717, June 2017, Battle Lesson 29.

31 See Chapter 6.

32 See in particular GC III; Geneva Convention IV 1949 (GC IV), Additional Protocol I 1977 (AP 1).

33 *Serdar Mohammed v Ministry of Defence* [2017] UKSC 2.

## Section 5 – Categories of captured persons

1.29. Categories of CPERS will differ depending on the legal type of the conflict. It is, therefore, essential to distinguish between international armed conflict, non-international armed conflict and other operations. Commanders are entitled to expect clear direction on this matter.<sup>34</sup> Should such direction be unclear, commanders should seek guidance from their legal adviser and through the chain of command.

1.30. All our Armed Forces must treat CPERS humanely, adhering to the minimum standard of treatment, regardless of the categorisation. At the point of capture, or as soon as possible thereafter, our Armed Forces should categorise CPERS.<sup>35</sup> Depending on the nature of the conflict there may be legal and practical requirements to separately accommodate and administer different categories of CPERS,<sup>36</sup> although the basic treatment will be the same regardless of their category.

1.31. Beyond the minimum standards of humane treatment, CPERS may also be entitled to varying degrees of enhanced rights and protections, depending on their categorisation. By the time CPERS are admitted to a CPERS holding facility,<sup>37</sup> it is essential that their categorisation has taken place. This will ensure that they receive their additional rights and protections. As well as protecting individual rights, timely categorisation of CPERS ensures that the resources committed to dealing with them can be focused efficiently.

1.32. Often, the appropriate categorisation of a CPERS is straightforward, whether through the circumstances under which they were captured or through clear indications of status. For example, during an international armed conflict, wearing military uniform is generally clear evidence that an individual is a combatant and, therefore, must be treated as a prisoner of war. Where an individual's status is not immediately obvious, it is necessary to formally determine status by an Article 5 of Geneva Convention III tribunal. In cases of doubt, and in accordance with the Conventions, our Armed Forces must presume CPERS to be prisoners of war until their status is determined. This

34 See Chapter 1, Section 3.

35 See paragraphs 1.35-1.51, Annex 1D and Chapter 7.

36 GC IV, Art 84; GC III, Art 5.

37 The definition of a captured persons holding facility is: a facility which is of an established nature and designed to hold larger numbers of CPERS for extended periods of time. Note: It does not include unit holding areas or collection points. For more information, see Chapter 6, Section 4.

edition of JDP 1-10 provides guidance on the constitution and conduct of such tribunals and further detail is at Annex 1A. It is important to note that an Article 5 tribunal exists purely for the purpose of determining entitlement to prisoner of war status. It is not a court of law and is not charged with findings of criminality in relation to the prisoner's conduct before or after capture. The Geneva Conventions<sup>38</sup> do allow for the application of national law to prisoners of war. For the UK, such application would be by a Royal Warrant made under section 371A of the Armed Forces Act 2006, modifying and applying that Act to prisoners of war. No Royal Warrant has yet been made.

1.33. As prisoner of war status only applies during international armed conflict, it follows that Article 5 tribunals do not exist during non-international armed conflict. During non-international armed conflict, it might be necessary to determine whether the CPERS should be treated as an internee or a criminal detainee. Such a determination should be made by the Detention Authority and subject to review by the Detention Review Authority. Further guidance on internment authorisation and review processes is at Annex 1B.

1.34. The following sections outline the different categories of CPERS and the rules governing their treatment. This is not intended to be a definitive guide to the law in this area; see JSP 383, *The Joint Service Manual of the Law of Armed Conflict* for more details. A summary of the different CPERS categories can be found at Annex 1D.

## Categories of captured persons – international armed conflict

1.35. When categorising CPERS during international armed conflict, generally the key distinction to be drawn is between combatants and civilians. For the purpose of this publication, a combatant is defined as: a member of the armed forces of a party to the armed conflict (other than medical personnel and chaplains) who has the right to participate directly in hostilities. (Note: this category includes irregular forces who are under responsible command and subject to internal military discipline, carry their arms openly and otherwise distinguish themselves from the civilian population.)<sup>39</sup> A combatant is immune from the law of the capturing state for warlike acts preceding their capture that do not amount to breaches of the Law of Armed Conflict. Generally, combatants are entitled to prisoner of war status, whereas civilians are not.<sup>40</sup> Medical and religious personnel do not become prisoners of war; they become retained personnel and are entitled to the same rights and privileges as

38 See GC III, Art 82.

39 See AP 1, Arts 43 and 44; JSP 383, paragraph 4.2 for further detail.

40 The precise details are in GC III, Arts 4, A and B.

prisoners of war. Inevitably there are a few categories of persons on the battlefield who do not sit comfortably in either category, but they are generally either small in number or easily identifiable and are mentioned below as exceptions to the general rules.

The key distinction to be drawn is between combatants and civilians.

The basic rule is that only those with combatant status have prisoner of war status on capture.

## Prisoners of war

1.36. A prisoner of war is defined as: a member of the armed forces of a party to an international armed conflict who is captured by the armed forces of the enemy.<sup>41</sup> Providing certain conditions (as set out below) are fulfilled, other persons are entitled to prisoner of war status. Prisoners of war are immune from the law of the capturing state for warlike acts preceding their capture that do not amount to breaches of the Law of Armed Conflict. They are also entitled to the rights and protections guaranteed under Geneva Convention III and Additional Protocol I. The following are those entitled to prisoner of war status.

- a. All members (except medical and religious personnel – see below) of the organised armed forces of a party to the conflict, even if that party is represented by a government or authority not recognised by the adversary, provided that those forces are:
  - o under a command responsible to a party to the conflict for the conduct of its subordinates; and
  - o subject to an internal disciplinary system which enforces compliance with the Law of Armed Conflict.<sup>42</sup>
- b. Members of any other militias, volunteer corps or organised resistance movements, belonging to a party to the conflict and operating in or outside their own territory, even if it is occupied, provided that they:
  - o are commanded by a person responsible for their subordinates;

<sup>41</sup> See JSP 383, paragraph 8.3 for further detail. This is a modified definition and will be updated in JDP 0-01.1, *UK Terminology Supplement to NATO Term*.

<sup>42</sup> API, Art 43.

- o have a fixed, distinctive sign recognisable at a distance;
- o carry their arms openly; and
- o conduct their operations in accordance with the Law of Armed Conflict.

c. Those who accompany the armed forces without actually being members thereof (for example, civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces), if duly authorised by the armed forces which they accompany. That armed force must issue these personnel with an appropriate identity card.<sup>43</sup>

d. Members of crews (including masters, pilots and apprentices) of the merchant marine and crews of civil aircraft of the parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.<sup>44</sup>

e. Inhabitants of non-occupied territory who, on the approach of the enemy, spontaneously take up arms to resist the invading forces without having had time to form themselves into regular armed units, provided they carry their arms openly and respect the Law of Armed Conflict (*levée en masse*).<sup>45</sup>

1.37. **Additional categories.** In addition to the above, our Armed Forces are to treat two categories of personnel in the same way as prisoners of war.<sup>46</sup>

- a. Members of the armed forces who have been released from detention in an occupied territory and are then re-interned.
- b. Members of armed forces of belligerents who reach neutral territory and have to be interned there under international law.

.....  
43 GC III, Art 4A(4).

44 GC III, Art 4A(5).

45 GC III, Art 4A(6).

46 GC III, Art 4B and 1907 Hague Convention XIII, Art 24.

## Other cases

1.38. **Guerrillas and militias.** Protection of the civilian population is a fundamental aim of the Law of Armed Conflict and, because not all combatants will necessarily be members of regularly constituted armed forces, to qualify as combatants and in order to avoid being mistaken for civilians, guerrillas and militias must distinguish themselves from civilians by wearing uniform or other distinctive dress or sign.<sup>47</sup> In exceptional circumstances where an armed combatant cannot distinguish themselves<sup>48</sup> they must carry their arms openly during any engagement and when visible to the enemy when deploying before an attack.<sup>49</sup> Failure to do so will result in loss of prisoner of war status.<sup>50</sup>

1.39. **Medical or religious personnel (retained personnel).** Captured enemy medical or religious personnel, even if members of the armed forces, do not have combatant status.<sup>51</sup> They do not become prisoners of war, but may be retained to carry out their duties on behalf of prisoners of war. They are often referred to as retained personnel.<sup>52</sup> While being held they shall receive, as a minimum, the benefits and protection accorded to prisoners of war.<sup>53</sup>

1.40. **Mercenaries.** Mercenaries are not combatants and therefore not entitled to prisoner of war status.<sup>54</sup> Notwithstanding this, they are entitled to the fundamental guarantees and minimum standards of treatment. They will generally be treated as criminal detainees to be tried before a competent court. Any suspicion that a CPERS may be a mercenary must be reported to higher headquarters immediately.

1.41. **Spies.** Members of the armed forces who would otherwise be combatants can be deprived of their protection and their right to be treated as prisoners of war if they engage in espionage activities whilst not wearing uniform.<sup>55</sup> Despite losing this protection, they retain the fundamental guarantees and minimum standards of treatment. Any suspicion that a CPERS may be a spy or engaged in espionage activities must be reported to higher headquarters immediately.

.....  
47 AP I, Art 44.

48 AP I, Art 44.

49 Breaching these conditions (or other breaches of the Law of Armed Conflict) does not remove combatant or prisoner of war status, but can be punished; see AP I, Art 44(2) and JSP 383, paragraphs 4.5-4.6.

50 AP I, Art 44(4) and JSP 383, paragraph 8.6.1.

51 GC III, Art 33; AP I, Art 43(2).

52 GC III, Art 33.

53 GC III, Art 33.

54 AP I, Art 47.

55 AP I, Art 46.

## Internees and detainees

1.42. During international armed conflict, anyone who is not a combatant or who does not fall into another category is a civilian.<sup>56</sup> Subject to limited exceptions mentioned at paragraph 1.36, civilians are not entitled to prisoner of war status (even if they have directly participated in hostilities). Instead, if they are detained they will be civilians who are either internees or detainees. These terms are not mutually exclusive, and depending on the circumstances certain CPERS may fall into both categories.

1.43. **Internees.** An internee is defined as: a civilian who is interned for imperative reasons of security.<sup>57</sup> The relevant provisions governing internees can be found in Geneva Convention IV. During international armed conflict, civilians belonging to the opposing state may only be interned under limited circumstances.<sup>58</sup> This cannot be done arbitrarily and a procedure, including a right of review, must be put in place. In addition, once an individual is interned, their internment must be reviewed on a regular basis.<sup>59</sup> They must be released as soon as the reasons for internment no longer exist and it is safe and practical to do so. There are two main circumstances for internment.

a. Civilians belonging to the opposing state who are on UK territory at the outbreak of hostilities may be interned.<sup>60</sup> Such action is likely to be carried out by the civil authorities using the police. Military involvement is unlikely, apart from running internment camps.

b. Where it is considered necessary for imperative reasons of security, our Armed Forces may intern civilians, including in occupied territory.<sup>61</sup> There is no requirement for them to have planned or to have participated in violence. Those who are interned must remain in the occupied territory.

1.44. **Detainees.** For the purpose of this publication, a detainee is defined as: a person who has been detained because they have committed, or is suspected of having committed, a criminal offence against the laws of the territory in which they have been captured, or against UK Armed Forces, or

.....  
56 AP I, Art 50.

57 See GC IV, Art 78 for more detail.

58 During wartime, emergency legislation may provide for the internment of UK civilians in certain circumstances. This is outside the scope of this publication.

59 See Annex 1B.

60 GC IV, Art 41.

61 GC IV, Art 78.

an offence against the law applied in an occupied territory or other offence under international law.<sup>62</sup> The fundamental guarantees for detainees can be found at Additional Protocol I, Article 75. If the UK is an occupying power, there is a duty on the UK to maintain law and order in occupied territory under its control. The normal laws of the country concerned will continue to be in effect, subject to any changes and additions that are necessary due to the occupation.<sup>63</sup> Relevant international human rights provisions may also necessitate changes to those normal laws. Civilians committing criminal acts will still be liable to arrest, either by the local police or by our Armed Forces. Anyone detained by our Armed Forces who is neither an internee nor a prisoner of war (nor a retained person as described at paragraph 1.39) will be considered a detainee. They are to be brought before a competent court as soon as possible and tried in accordance with the applicable criminal law.<sup>64</sup>

1.45. **Detainees becoming internees.** Generally, if given a custodial sentence, detainees will serve a sentence of imprisonment in a civilian prison. However, they can instead be sentenced to a period of internment and then will become internees as described at paragraph 1.43. This is likely to be the case where the crime was political in character and aimed at our Armed Forces or the occupation administration, rather than a crime for personal gain.

1.46. **Exceptions.** There are certain classes of civilians who are nonetheless entitled to prisoner of war status as set out under paragraph 1.36.<sup>65</sup>

## Categories of captured persons – non-international armed conflict

1.47. During non-international armed conflict, the law governing the treatment of CPERS detained by our Armed Forces differs from that described above. The situation will be governed by a combination of:

- the Law of Armed Conflict;
- the law of the nation in which hostilities are taking place, as agreed with the host state;

.....  
62 This is a modified definition and will be updated in the JDP 0-01.1, *UK Terminology Supplement to NATOTerm*.

63 GC IV, Art 64.

64 GC IV, Art 66.

65 GC IV, Arts 4A (4) and (5).

- applicable international human rights treaties to which the UK is a party, for example, the European Convention of Human Rights and other international laws; and
- any international mandate for the operation, for example, a UNSCR.

During non-international armed conflict where our Armed Forces capture individuals, they will be classified as security internees or criminal detainees. These terms are not mutually exclusive, and depending on the circumstances certain CPERS may fall into both categories.

1.48. **Relevant provisions.** The relevant provisions governing internees in a non-international armed conflict can be found in Common Article 3 of the Geneva Conventions, customary international law and, where specific criteria are met, Additional Protocol II, as well as any other applicable rules of international humanitarian law.<sup>66</sup>

1.49. **Internees.** Our Armed Forces may intern civilians for imperative reasons of security. This power is usually derived from a UNSCR, from the Law of Armed Conflict, or from host nation law (with host nation consent). Internees will normally be persons who are involved in actively and violently resisting the mission or presence of our Armed Forces and may include members of insurgent forces/non-state armed groups seeking to undermine the host nation government. Their motive will generally be political and/or religious in nature. The motivation for some activities may not be immediately clear, for example, a terrorist who funds their activities by bank robberies or drug smuggling, or a major criminal seeking to undermine the authority of the government to continue their own activities.

1.50. **Detainees.** Our Armed Forces may have the power to detain criminal suspects. This power will usually derive from:

- the host nation's own domestic law;
- a UNSCR;
- when necessary, for self-defence including the defence of others; or

<sup>66</sup> AP II only applies to armed conflicts that take place in the territory of a 'high contracting party' between its armed forces and dissident armed forces or other organised armed groups, which under responsible command exercise such control over a part of the territory as to enable them to carry out sustained and concerted military operations, and to implement AP II.

- the Law of Armed Conflict (such as implicit in Common Article III or Additional Protocol II).

Alternatively, our Armed Forces may assist the host nation's police, military or security personnel in such matters. Any such detention is normally short term pending prosecution by the host nation authorities for offences against its laws, including war crimes, whether or not they have a direct impact on UK or coalition forces.

### Categories of captured persons – other operations

1.51. During operations that do not amount to armed conflict, our Armed Forces may have the power to detain or intern CPERS through a UNSCR, customary international law, or host nation law (with host nation consent). The treatment of CPERS by our Armed Forces will be governed principally by the domestic laws of the UK, the country in which the operation occurs, and applicable international human rights treaties. The basic minimum standards set out in Chapter 2, however, will apply to CPERS activities in all operations. Examples of other operations may include a non-combatant evacuation operation, humanitarian intervention or peace support operation.

## Section 6 – International and national organisations

1.52. Commanders should be aware of the range of non-military governmental, and independent (national and international) organisations that play a pivotal role in assisting in, and overseeing, arrangements for the treatment of CPERS. These may include the:

- International Committee of the Red Cross (ICRC);<sup>67</sup>
- National Information Bureau;<sup>68</sup>
- Committee for the Prevention of Torture established under the European Convention for the Prevention of Torture;
- UN agencies with responsibilities for humanitarian issues, such as the UN High Commissioner for Human Rights;

67 See Chapter 4, Section 4.

68 See Chapter 4, Section 5.

- UN Special Rapporteur on Torture;
- UN Committee Against Torture;
- Special Representative of the Secretary-General or Head of Mission for the country in question; or
- various host nation groups.

Additionally, other key parts of the UK government, including the Foreign, Commonwealth and Development Office and the Stabilisation Unit may have a role. Various non-governmental organisations (who may not be impartial) will also take an active and high-profile interest in the conditions under which CPERS are held and the treatment they receive, such as Amnesty International and Human Rights Watch. Direction on the role and status of these organisations and those which have a right to inspect is at Chapter 4, Section 4. It should be noted that Provost Marshal (Army)'s staff and legal advisers routinely engage with the ICRC.

1.53. **Media organisations and others.** Media organisations and freelance individuals, including non-governmental organisations (impartial and otherwise), will inevitably take a close interest in the arrangements for, and treatment of, CPERS. The number of CPERS and the circumstances under which CPERS are captured are matters of legitimate public interest, but maintaining their general privacy is likely to be important for their protection and CPERS must not be made the object of public curiosity.<sup>69</sup> Care should be taken to ensure that Service personnel and the media embedded with our Armed Forces do not disregard this rule. Any approach by the media is to be referred in the first instance to the media operations staff at the Joint Task Force Headquarters (JTFHQ),<sup>70</sup> who should liaise closely with the legal adviser and J1 staff in handling the issues raised. The MOD is the sole release authority for images of any CPERS.

69 GC III, Art 13. As a matter of law and policy this rule is applied to all CPERS.

70 For ease and consistency we have used the Joint Task Force Headquarters (JTFHQ) throughout. However, whilst the JTFHQ will normally be the relevant theatre headquarters, this will not always be the case.

Notes

1

## Annex 1A

# Determining prisoner of war status during Article 5 tribunals

1A

1A.1. Article 5 of the Third Geneva Convention states: ‘should any doubt arise about individual entitlement to prisoner of war status, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal’. This tribunal is known as an Article 5 tribunal. Consequently, any individual whose status is unclear or who claims prisoner of war status is entitled to a determination of that claim by way of an Article 5 tribunal if their status is in doubt. Geneva Convention III does not, however, indicate how an Article 5 tribunal should be constituted.<sup>71</sup>

1A.2. Any Article 5 tribunal should be convened by the Joint Force Commander. The likely need for such tribunals should be anticipated and considered as a normal part of operational planning.

1A.3. Those found not to be entitled to prisoner of war status may be detained or interned (depending on the reason for their capture), handed over to the civil authorities, or released. Combatants are presumed to be entitled to prisoner of war status unless formally declared otherwise by an Article 5 tribunal and, even if so declared, are entitled to the same standard of humane treatment, including a proper trial regarding any allegations made against them.

1A.4. The key principles for conducting such an Article 5 tribunal are set out in this annex. These principles will be supplemented by operational-specific instructions and procedures issued by Permanent Joint Headquarters (PJHQ) or the Joint Force Commander.

.....  
71 The governing regulations for Article 5 tribunals used to be the Royal Warrant Governing the Maintenance of Discipline Among Prisoners of War 1956, the Army Act 1955 and The Prisoner of War Determination of Status Regulations 1958. The Armed Forces Act 2006 rendered those regulations obsolete.

## Role and purpose

1A.5. The purpose of the tribunal is to determine whether or not a captured persons (CPERS) is entitled to prisoner of war status. It should make no findings in relation to other matters, for example, alleged criminal conduct by the CPERS.

## Composition

1A.6. An Article 5 tribunal must consist of a president of at least the rank of major or equivalent and two other officers, warrant officers, senior non-commissioned officers, or other Crown servants.

## Conduct

1A.7. An Article 5 tribunal will be conducted in the manner that the Joint Force Commander considers best suited to the operational circumstances. Whilst a tribunal may be conducted within the same format as a Service Inquiry, the proceedings are not held under Section 343 of the Armed Forces Act 2006 or the Armed Forces (Service Inquiry) Regulations 2008 and the policy guidance in Joint Service Publication (JSP) 832, *Guide to Service Inquiries* does not apply. But, where convenient, the tribunal may follow the procedures and guidance set out in JSP 832.

## Evidence

1A.8. The tribunal should not normally take evidence on oath<sup>72</sup> but may hear oral evidence wherever necessary. For example, to clarify certain aspects of a witness' written statement or for the tribunal to better assess the reliability of any disputed or questionable aspect of their evidence.

1A.9. Evidence to the tribunal, including statements, documentary and physical exhibits may be gathered in any manner the president considers appropriate (after taking legal advice), including through the use of an investigator.

1A.10. There are no formal rules for introducing evidence, which may be in the form of:

- written statements from individuals;

.....  
72 It should only do so in exceptional circumstances after legal advice.

- records of interview;
- documentary or other evidence given to the investigators or accumulation of documents;
- emails;
- publications;
- copies of Service or civilian police recorded witness statements; or
- copies of police exhibits that have been authorised for release to the tribunal.

The guiding principle should be whether the evidence is relevant to determine whether the CPERS is entitled to prisoner of war status.

1A.11. A witness statement should be validated by being signed and dated at the beginning and after the last word by the witness. Where an investigator receives information relevant to the tribunal in conversation through either a meeting or by telephone, such evidence should, where possible, be formalised in an attributable written record (preferably in statement format) and signed. Such evidence, as well as any witness statement that is not clearly validated, should be certified by the investigator annotating a signed written/stamped declaration on any recovered document/exhibit to certify from where it was obtained/originated and when. All evidence must be retained and archived as an operational record, even if not used by the tribunal.

1A.12. The tribunal cannot seek witness orders to compel civilian witnesses to give evidence but the president or the Joint Force Commander may order any military subordinate to produce a witness statement (though not what to say therein) and/or to appear before the tribunal.

1A.13. Witnesses should be reminded that the tribunal's completed report may be subject to disclosure (under the Freedom of Information Act or other provisions) and that their evidence may be disclosed under certain circumstances.

## Attendance, participation and representation of the captured persons

1A.14. The CPERS is not entitled to legal representation for matters before the tribunal but may be assisted by a prisoners' representative (within the meaning of Geneva Convention III, Article 79; see Chapter 10, Section 13) or such other person as the Joint Force Commander may appoint to assist the CPERS – an 'assisting officer' (see Annex 1C).

1A.15. The CPERS should normally be present when the tribunal hears evidence and, not less than 48 hours before any hearing, should be provided with copies of any witness statements or other documentary evidence (in a language the CPERS understands<sup>73</sup>) together with an explanation of the procedure and issue to be decided by the tribunal. Presence may be through video teleconferencing (VTC) or by telephone if there is no practicable alternative.

1A.16. The CPERS or the assisting officer may question any witnesses who give oral evidence and may give evidence on their own behalf and make representations either in person or through the assisting officer. Where necessary, an interpreter should be provided to facilitate the CPERS' meaningful participation in the tribunal proceedings.

1A.17. Paragraphs 1A.15 and 1A.16 are subject to such restrictions as the Joint Force Commander or the tribunal president may, having taken legal advice, deem it necessary to protect operational security or the personal security of any individual.

## Finding

1A.18. Having considered the evidence and heard any representations from, or on behalf of, the CPERS, the tribunal shall make a finding as to whether they are entitled to prisoner of war status. Such a finding shall be based on the balance of probabilities.

1A.19. The tribunal members need not be unanimous in their findings; any majority finding is permissible.

.....  
73 Where it appears that the CPERS is illiterate the documents shall be read to them.

1A.20. The tribunal may consider the status and hear evidence relating to more than one CPERS at a time, but a specific finding must be made in relation to each individual CPERS.

1A.21. A written record of the finding, including a summary of the evidence considered and the reasons for the tribunal's decision shall be produced and securely archived as an operational record.

## Communication and absence of automatic right of appeal

1A.22. As soon as possible after making a finding, the president of the tribunal shall ensure that it is communicated to the CPERS in a language that they understand. The likely implications for the CPERS (for example, transfer to prisoner of war camp, internment or release) of the finding should also be communicated to the individual, along with a copy of the record described at paragraph 1A.21 (subject to any necessary redactions for operational and/or personal security).

1A.23. There is no right of appeal from the findings of a tribunal but should the CPERS become aware of evidence or other information that were not considered by the tribunal, they may refer the matter to the Joint Force Commander. If the Joint Force Commander considers that the evidence or other information would more likely than not have had an impact on the original tribunal's decision had they been in possession of it, they shall refer the matter to a differently constituted tribunal for a new hearing.

Notes

1A

## Annex 1B

# Principles governing security internment, criminal detention and the review process

1B

## Scope

1B.1. These principles apply to internment in both international and non-international armed conflict. They also apply to those persons detained in an armed conflict on suspicion of having committed criminal offences and awaiting transfer to the appropriate civilian authorities. It should be noted that security internment and criminal detention are two distinct categories and different criteria apply for determining on what basis a captured person (CPERS) will have their liberty restricted.<sup>74</sup> These principles will be supplemented by operational specific instructions and procedures issued by Permanent Joint Headquarters (PJHQ) or the Joint Force Commander.

## Legal basis for internment

1B.2. The legal basis for internment will derive from Geneva Convention IV (in an international armed conflict), international humanitarian law, a United Nations Security Council resolution (UNSCR), or authorisation or agreement by the host nation. Under this legal authority, our Armed Forces may intern captured persons where **necessary for imperative reasons of security**. This will include a threat to the security of the civilian population as well as to any coalition or host nation forces. The CPERS will be categorised as an internee. The UK will comply with all applicable international law obligations when conducting internment.

1B.3. Internment is an exceptional measure and a CPERS will only be interned where it is assessed by the Detention Authority to be necessary for

<sup>74</sup> It is possible for certain CPERS to be categorised as both internees and criminal detainees.

imperative reasons of security. Where such reasons cease to exist, internees are to be released immediately (subject only to arrangements being put in place for their safe release).

## Legal basis for criminal detention

1B.4. As with internment, the legal basis for criminal detention will derive from the Geneva Conventions (and Additional Protocols), international humanitarian law, a UNSCR, or authorisation or agreement by the host nation. Criminal detention may only be authorised where a CPERS is suspected of having committed a criminal offence and where there is a realistic prospect of that person being handed over to the host nation's authorities, within a reasonable period of time in all the circumstances, for prosecution. Detention should be for no longer than necessary to effect the transfer. Where these criteria are not met, a CPERS may still be subject to internment for imperative reasons of security (if the criteria are met).

## The Detention Authority<sup>75</sup>

1B.5. The Detention Authority should be empowered to direct both the initial internment or detention of a CPERS and any continued periods of internment or detention (subject to any decision by the Detention Review Authority to direct the release of a CPERS). In determining whether internment or detention of a particular CPERS meets the criteria set out in paragraphs 1B.2-1B.4, the Detention Authority should seek advice from, amongst others, a legal adviser, a policy adviser and senior members of the J2 and J3 organisations.

1B.6. As soon as practicable (normally within 48 hours) after the capture of an individual, the Detention Authority should make a determination ('the initial determination') whether internment or detention meets the criteria set out in paragraphs 1B.2-1B.4 and decide whether to:

- order the release of the CPERS;
- authorise continued internment or detention; or
- approve the transfer to the host nation for criminal prosecution (subject to the conditions stipulated in any transfer agreement and having taken legal and policy advice).

<sup>75</sup> See also paragraph 4.22.

If the Detention Authority is not satisfied that internment or detention is necessary and there is no other legal basis on which to intern or detain them, they must order the release of the CPERS.

1B.7. If the Detention Authority authorises internment or detention, they must make a redetermination ('a subsequent redetermination') not later than 28 days after the initial determination and not later than every 28 days thereafter to consider whether grounds for continued internment or detention remain.<sup>76</sup> Should the Detention Authority be aware of reasons why the continued internment or detention is no longer necessary, the CPERS should be released as soon as possible. While the Detention Authority should be mindful of any decision by the Detention Review Authority at a review, they must ensure that the basis and necessity for continued internment or detention is carefully considered each time.

1B.8. As soon as possible after making the initial determination and after each subsequent redetermination, the Detention Authority is to ensure that a written record (in a language the CPERS understands) of that decision, including the reasons for it, is provided to the CPERS to keep.

## The Detention Review Authority

1B.9. The Detention Review Authority is independent of the Detention Authority and of the operational chain of command and is appointed as such by the Secretary of State for Defence (or a person acting on their behalf). The Detention Review Authority may be a single individual or a tribunal of up to three persons. The Detention Review Authority must be an officer of at least OF5 rank or a senior civil servant, and must be of higher rank than the Detention Authority.<sup>77</sup> For operations where many CPERS are expected, more than one Detention Review Authority may be appointed.

1B.10. The Detention Review Authority performs an important function by undertaking an impartial and fair review of the grounds for the CPERS' internment or detention, at an early stage and at frequent intervals thereafter, in accordance with the procedure described below. In conducting each review, the Detention Review Authority will have access to a legal adviser (who shall not be the same as the legal adviser to the Detention Authority).

.....  
76 The Detention Authority or Joint Force Commander may direct subsequent redeterminations at shorter intervals but may not delay them beyond 28 days.

77 See also paragraph 4.23.

## Informing captured persons of the review procedure

1B.11. As soon as practicable after the initial determination, the Detention Authority shall provide<sup>78</sup> the CPERS with a written explanation<sup>79</sup> of the detention review procedure, namely that:

- an initial determination that it is necessary to intern/detain them (explaining the relevant grounds) has been made by the Detention Authority;
- the necessity to intern/detain them will be reviewed by the Detention Review Authority, who will make an independent and impartial decision;
- they have the right to challenge their internment/detention, and how to do so;
- they have the right to participate in the review procedure, and how to do so;
- if they choose not to challenge their internment/detention the Detention Review Authority may decide that it is not necessary to hold a hearing; and
- the decision of the Detention Review Authority is final and may not be overturned by the chain of command.

## Information to be provided to the Detention Review Authority

1B.12. As soon as practicable after the initial determination,<sup>80</sup> the Detention Authority (or a person acting on their behalf) is to provide the Detention Review Authority with the following.

- a. A copy of the CPERS record (MOD Form 2300B).

.....  
78 The Detention Authority need not do this personally and may instead arrange for a person to act on their behalf.

79 In a language understood by the CPERS. If the CPERS is illiterate, appropriate steps must be taken to ensure that they understand the contents of the written explanation. Compliance with these requirements must be recorded in the relevant detention records.

80 See paragraph 1B.40 for the application of this requirement to further reviews by the Detention Review Authority.

- b. A statement of the circumstances of the CPERS' capture.
- c. The reason(s) the Detention Authority considers that the internment or detention is necessary.
- d. Copies of any transcripts of interviews with the CPERS.
- e. Copies of any evidence or other material (including intelligence) provided to the Detention Authority that they considered in determining that internment or detention was necessary.
- f. Any other information that the Detention Authority considers may assist the Detention Review Authority.
- g. Any other information that the Detention Review Authority considers may assist them in conducting the review.

1B.13. In addition to the information specified at paragraph 1B.12, the Detention Authority should provide to the Detention Review Authority any evidence (including details of any potential witnesses) and/or written representations which the CPERS wishes to be taken into consideration. If the CPERS does not wish to provide such evidence or make any representations that fact is to be communicated in writing to the Detention Review Authority.

1B.14. There is no requirement for the Detention Authority to inform the Detention Review Authority of the outcome of each subsequent redetermination unless the categorisation of a CPERS changes, for example, from security internee to criminal detainee, or unless there has been a significant change (in the opinion of the Detention Authority) in the evidence or intelligence on which the Detention Authority makes their determination. If the Detention Authority is in any doubt as to whether there has been a significant change they must consult the Detention Review Authority who will make the final decision regarding the necessity for a review.

## Initial review

1B.15. As soon as practicable after receipt of the information specified in paragraphs 1B.12 and 1B.13, the Detention Review Authority shall conduct an initial review of the documentation and the Detention Authority's determination.

1B.16. If the Detention Review Authority is satisfied on the balance of probabilities of all of the following, then the continued internment or detention of the individual remains valid and the Detention Authority should be so informed.

- a. There exists legal authority to intern or detain the individual.
- b. Based on the information provided, the Detention Authority's determination is reasonable.
- c. Continued internment or detention is necessary in accordance with the criteria at paragraphs 1B.20a(2) and 1B.20b(2) and (3).
- d. The CPERS does not challenge their internment or detention despite having been given the opportunity to do so.

1B.17. If the Detention Review Authority is of the opinion that any of the criteria at paragraph 1B.16 are not satisfied, a full review must be conducted.

1B.18. A full review must also be conducted where a CPERS who did not initially submit written representations against their internment or detention (and whose internment or detention was continued in accordance with paragraph 1B.16 without a full review) later submits such representations.

1B.19. The Detention Review Authority shall ensure the fairness of any review they conduct and it will be a matter for the Detention Review Authority to decide what fairness requires in all the circumstances.

### Full review – purpose

1B.20. The purpose of the full review is for the Detention Review Authority to determine the following.

- a. For security internees:
  - (1) there exists legal authority to intern the individual; **and**
  - (2) the continued internment is necessary for imperative reasons of security.

b. For criminal detainees:

- (1) there exists legal authority to detain the individual;
- (2) that there are reasonable grounds for suspecting the individual has committed a criminal offence; **and**
- (3) there is a realistic prospect that the individual will be transferred to national authorities within a reasonable period of time in the circumstances for prosecution.

1B

## Full review – conduct

1B.21. A full review will be conducted in the manner that the Detention Review Authority, after consultation with the Joint Force Commander, considers best suited to the operational circumstances. The Detention Review Authority has wide discretion in how to manage and conduct the full review but should strive to balance fairness to the CPERS (including as full participation in the process as possible) with operational and personal security. The full review should take place as soon as practicable after the initial review. The Detention Authority (or someone acting on their behalf) will set out the reasons and evidence supporting why they believe the criteria at paragraph 1B.20 are met and the CPERS will be allowed to question any witness and give evidence on their own behalf.

## Full review – evidence

1B.22. Evidence before a Detention Review Authority should not normally be taken under oath but the Detention Review Authority may hear oral evidence wherever necessary, such as to clarify certain aspects of a witness's written statement or for the Detention Review Authority to better assess the reliability of any disputed or questionable aspect of their evidence.

1B.23. Evidence, including statements, documentary and physical exhibits may be gathered in any manner the Detention Review Authority considers appropriate (after taking legal advice) including through the use of an investigator.

1B.24. There are no formal rules for introducing evidence, which may include:

- written statements from individuals;
- records of interview;

- documentary or other evidence given to the investigators or accumulation of documents;
- emails;
- publications;
- copies of service or civilian police recorded witness statements; or
- copies of police exhibits that have been authorised for release to the Detention Review Authority.

The guiding principle should be whether the evidence is relevant to the purpose of the review (paragraph 1B.20).

1B.25. A witness statement should be validated by being signed at the beginning and after the last word and dated by the witness. Where an investigator receives information relevant to the review in conversation through either a meeting or by telephone, such evidence should, where possible, be formalised in an attributable written record (preferably in statement format) and signed. Such evidence, as well as any witness statement that is not clearly validated, should be certified by the investigator annotating a signed written/stamped declaration on any recovered document/exhibit to certify from where it was obtained/originated and when. All evidence must be retained as an operational record, even if not used by the Detention Review Authority.

1B.26. The Detention Review Authority cannot seek witness orders to compel civilian witnesses to give evidence but may request the Joint Force Commander to order any military subordinate to produce a statement (though not what to say therein) and/or give evidence.

1B.27. Witnesses should be reminded that the Detention Review Authority's findings may be subject to disclosure (under the Freedom of Information Act or other provisions) and that their evidence may be disclosed under certain circumstances.

### **Full review – attendance, participation and representation**

1B.28. The CPERS is not entitled to legal representation for matters before the Detention Review Authority but may be assisted by a person of their choosing (if that person is a volunteer) or such other person as the Joint Force Commander, or a person acting on their behalf, may appoint to assist the CPERS – 'the assisting officer' (see Annex 1C). There is no right to legal representation and no obligation on the Joint Force Commander to ensure that the CPERS has legal representation. However, as far as possible, considering

operational and personal security issues, the CPERS should also be allowed to have sufficient contact with the outside world to be able to obtain evidence of their own.

1B.29. Subject to the caveat at paragraph 1B.31 or where it is not possible for operational reasons, the CPERS should be present when the Detention Review Authority hears evidence and should, not less than 48 hours before any hearing, be provided with sufficient information and copies of relevant documentation including any witness statements or other documentary evidence (in a language the CPERS understands) necessary for them to understand the reasons for their detention or internment, together with an explanation of the review procedure and the test to be applied by the Authority. Presence may be through video link or by telephone if there is no practicable alternative.

1B.30. The CPERS (or the assisting officer if the CPERS wishes or the Detention Review Authority so directs) may question any witnesses and may give evidence on their own behalf. Where necessary, an interpreter should be provided to facilitate the CPERS' meaningful participation in proceedings before the Detention Review Authority.

1B.31. The CPERS or their assisting officer has no right to see classified intelligence or other operationally sensitive material and paragraphs 1B.28, 1B.29 and 1B.30 are subject to such restrictions or modifications as the Joint Force Commander or the Detention Review Authority, on legal advice, may deem necessary to protect operational or personal security. J2X advice will be essential prior to any disclosure of material to a CPERS to ensure that legitimate intelligence or other security concerns are taken into consideration. Where classified or operationally sensitive information has been provided to the Detention Review Authority but is redacted or withheld from the CPERS, the 'gist' of the relevant facts should be provided. Legal and J2X advice must be obtained before any evidence is redacted or 'gisted' prior to disclosure to the CPERS.

## Full review – decision

1B.32. Having considered the evidence and heard any representations from the CPERS, the Detention Review Authority shall make a decision as to whether the criteria at paragraph 1B.20 are met. Such a decision shall be based on the balance of probabilities.

1B.33. When the Detention Review Authority is made up of more than one member, members need not be unanimous in their decisions; a majority decision is possible.

1B.34. The Detention Review Authority may conduct a review and hear evidence relating to more than one CPERS at the same time, but a specific decision must be made in relation to each individual CPERS.

1B.35. A written record of the decision, including a summary of the evidence considered and the reasons for the Detention Review Authority's decision shall be produced and securely archived as an operational record.

### Communication and further reviews

1B.36. As soon as possible after making a decision, the Detention Review Authority shall ensure that it is communicated to the Detention Authority. The Detention Authority must inform the CPERS, in a language that they understand, of the Detention Review Authority's decision, the reasons for that decision and the likely implications (continued internment or detention, release and so on). Save where the Detention Review Authority has decided that the CPERS should be released, the Detention Authority shall explain that the Detention Review Authority will undertake a further full review of the CPERS' internment or detention within six months, if they have not been released or transferred before then. In the meantime, the Detention Authority will reassess the need for the CPERS' continued internment or detention every 28 days, for so long as they remain interned or detained. A copy of the record at paragraph 1B.35 (subject to necessary redactions for operational or personal security) should also be given to the CPERS.

1B.37. If the Detention Review Authority is satisfied that the criteria at paragraph 1B.20 are met, the continued detention of the CPERS remains valid, subject to the Detention Authority's continuing duty of assessment (see paragraph 1B.7).

1B.38. If the Detention Review Authority **is not** satisfied that the criteria at paragraph 1B.20 are met, the Detention Authority **must order the release** of the CPERS as soon as practicable.

1B.39. There is no right of appeal from the decisions of the Detention Review Authority. The Detention Review Authority shall undertake a further review within six months of their decision following the first review, and thereafter at

no longer than six monthly intervals, for so long as the CPERS continues to be interned or detained by UK Armed Forces. The further review shall be a full review if the previous review was a full review, and an initial review if the previous review was an initial review and all the criteria in paragraph 1B.16 still apply. In addition, should a CPERS whose continued internment or detention has been authorised become aware of evidence or other information that was not considered at the full review, they may refer the matter to the Detention Review Authority. If the Detention Review Authority considers that the evidence or other information would more likely than not have had an effect on its original decision had it seen it, it shall conduct a new full review. A further full review may also be held if the Detention Review Authority considers that one is necessary following information provided by the Detention Authority of a change of circumstances in accordance with paragraph 1B.14.

1B.40. The Detention Authority shall provide the Detention Review Authority with the information specified at paragraph 1B.12 not later than 14 days before any further review required to be conducted by the Detention Review Authority in accordance with the preceding paragraphs.

1B

Notes

1B

## Annex 1C

# The assisting officer

1C

## Applicability

1C.1. This guidance applies only to those UK military personnel and Crown servants assigned to duties assisting captured persons (CPERS) before an Article 5 tribunal or a full review of internment or detention by a Detention Review Authority.

## Appointment

1C.2. An assisting officer will be appointed by, or on behalf of, the Joint Force Commander and should be an officer, warrant officer, senior non-commissioned officer or a Crown servant. The assisting officer will normally be drawn from personnel already serving in the operational theatre. The role of the assisting officer will take priority over all other secondary duties. The assisting officer does not need not be outside the operational chain of command. The assisting officer should normally be of the same gender as the CPERS. No intelligence exploitation (J2X) personnel will be appointed to the role of assisting officer. When appointing an assisting officer, particular care will need to be taken to select a person having appropriate personal and professional qualities for such a sensitive and responsible role. Assisting officers will require appropriate preparation for the role, including briefings from J2 and legal advisers.

1C.3. Appointing an assisting officer is not obligatory for all proceedings before an Article 5 tribunal or the Detention Review Authority, but one should normally be provided if the CPERS is not already properly represented, and certainly where the CPERS is one of the following.

- a. Under the age of 18.
- b. Incapacitated through serious injury.
- c. Lacking in the mental capacity to otherwise take an effective part in proceedings.

An assisting officer should always be provided if the Article 5 tribunal president or Detention Review Authority determines that such provision would assist the proceedings.

### Other assistance

1C.4. Other persons, such as civilian lawyers, members of non-governmental organisations, or prisoners' representatives (Article 5 tribunals only), may assist a CPERS before a tribunal or Detention Review Authority full review. Even where such others are supporting a CPERS, an assisting officer may also be appointed if the tribunal president or Detention Review Authority considers that such provision would assist proceedings and the CPERS' consents.

### Role

1C.5. The role of the assisting officer is that of a facilitator, assisting the CPERS to effectively participate in proceedings and present their case before the tribunal or Detention Review Authority. The assisting officer is not legally qualified but may question witnesses, make representations and put forward evidence on the CPERS' behalf. The assisting officer's role is limited to purposes of the Article 5 tribunal or detention review process only. They are not general representatives of the CPERS and their role does not extend to broader matters, such as monitoring standards of CPERS treatment or the conduct of any interrogation (which are the responsibility of others). CPERS should be allowed sufficient access to the assisting officer to effectively prepare for a tribunal or detention review hearing. But, where operational or security reasons dictate, such access may be limited. It follows that neither the CPERS nor the assisting officer has unfettered access to sensitive intelligence.<sup>81</sup>

1C.6. The assisting officer is not an investigator but they may (with the CPERS' consent) seek to obtain evidence or information from the Service Police, J2 or other sources that may assist the CPERS before the tribunal or Detention Review Authority. The assisting officer may also liaise with civilian authorities, the International Committee of the Red Cross (ICRC), non-governmental organisations or others in the performance of their duty.

.....  
81 See paragraphs 1B.28 and 1B.31 for operational and personal security considerations.

## Confidentiality

1C.7. Subject to the caveat at paragraph 1C.8, the assisting officer should treat anything said to them by the CPERS in relation to matters before the tribunal or Detention Review Authority as confidential. Such confidentiality exists as a matter of policy to ensure all CPERS are properly assisted. The assisting officer must not, without the CPERS' permission, disclose to anyone what the CPERS tells them or any other information they discover whilst assisting them. The assisting officer must not be ordered by a more senior officer to disclose such information. The assisting officer should only reveal what has been said to them by the CPERS if under a legal obligation (for example, if required to do so in legal proceedings) or in accordance with paragraph 1C.8. Such confidentiality continues after the Article 5 tribunal or Detention Review Authority proceedings have ended. If in doubt, the assisting officer should seek legal advice.

1C.8. **The duty of confidentiality does not apply where the assisting officer becomes aware of information that they believe would likely prevent death or serious injury to UK or coalition personnel or civilians, or would present a significant threat to operational security.** The assisting officer must make this caveat clear to the CPERS at their initial meeting.

## Conflict of duty

1C.9. If the assisting officer believes that there is a conflict between their duty as a Service person or Crown servant and their duty as an assisting officer they may withdraw from the role and a replacement assisting officer will be appointed if still required.

Notes

1C

## Annex 1D

# Summary of categories of captured persons

1D

Type of operation	Captured persons	Examples	Rules governing captured persons	
International armed conflict	Prisoners of war	Combatants		Customary international law and applicable international human rights
	Retained persons	Medical, chaplains	Geneva Convention (GC) III and Additional Protocol (AP) I	
	Others entitled to prisoner of war status	War correspondents, supply contractors and others authorised to accompany armed forces <i>Levée en masse</i>		
	Internees	Civilians belonging to the opposing state interned for imperative reasons of security	GC IV	
	Detainees	Civilian criminals Spies Mercenaries	AP 1, Article 75	
Non-international armed conflict	Internees	Dissident armed forces, other organised non-state armed groups or individuals interned for imperative reasons of security  This includes civilians taking a direct part in hostilities	Common Article 3 and AP II (if criteria are satisfied)	
	Detainees	Civilians detained for committing a criminal offence under the host nation law		
Other operations*	Internees	Individuals who are threatening mission accomplishment	Domestic laws of the UK	
	Detainees	Individuals who are threatening mission accomplishment or committing criminal acts	Domestic laws of the country in which the operation occurs	

\* For example, a non-combatant evacuation operation, humanitarian intervention, counter-piracy or peace support operation.



# Chapter 2

Chapter 2 sets out the basic principles of humane treatment, starting by listing the minimum standards and requirements that our Armed Forces will apply to all CPERS. It then explains what constitutes the prohibited acts (including the prohibited five techniques) and provides guidance on what actions may be permitted. The chapter then outlines special treatment for specific categories of CPERS before finally addressing the complaints process.

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“

Commanders must ensure that all personnel under their command are fully aware of the obligations to treat CPERS humanely and of the prohibition of torture, cruel, inhuman or degrading treatment.

”

## Chapter 2

# Standards of treatment

## Section 1 – Basic principles of humane treatment

2

2.1. We must apply basic principles of humane treatment when dealing with all captured persons (CPERS), at all stages of the CPERS handling process, from point of capture to release or transfer.

**ALL CPERS must be treated humanely at all times, including during all stages of their handling from point of capture to release or transfer.**

**ALL CPERS are entitled to respect for their person, honour and religion.**

2.2. To the extent operational circumstances permit,<sup>82</sup> all CPERS are to be protected from the effects of the conflict. All are to be treated consistently with the UK's obligations, whether under the Geneva Conventions or any other applicable international law, and as a matter of UK policy.

2.3. CPERS handling requires firm command, leadership and a strong commitment to treat individuals humanely.<sup>83</sup> Commanders must ensure that all personnel under their command are fully aware of the obligations to treat CPERS humanely and of the prohibition of torture, cruel, inhuman or degrading treatment.<sup>84</sup> These prohibitions must be stated in the operational directives and regulations and in the unit standing orders applicable to those responsible for CPERS.

82 See Geneva Convention III 1949 (GC III), Articles (Arts) 19 and 23.

83 Violation of the obligation to treat captured persons (CPERS) humanely, and the command and individual responsibility to prevent, interrupt and report such violations, is addressed in Chapter 4.

84 Additional Protocol I 1977 (AP I), Art 87. In addition see the *MOD Strategic Detention Policy*, which reflects the obligations under AP 1.

## Standing orders

2.4. Standing orders must clearly set out that access by all ranks/grades to CPERS must be strictly controlled and kept to the absolute minimum necessary for the safe, secure and humane treatment of the CPERS, including allowing for authorised tactical questioning. In-theatre legal and Force Provost Marshal/Service Police should be approached for advice at an early stage when drafting such orders. A list of subjects that must be covered by the orders is at Annex 2A.

2.5. Commanders must ensure, with advice and input from the legal adviser and the Force Provost Marshal/Service Police, that standing orders are drafted for each operation and that they account for the specific circumstances involved. Breach of such standing orders will be dealt with under the existing disciplinary provisions of the Armed Forces Act 2006, for example, Section 13 (Contravention of a Standing Order) or any other criminal offence disclosed on the facts. If the mistreatment of a CPERS, however, is considered to be severe enough to amount to cruel or inhuman or degrading treatment, or other violation, the matter may be dealt with as a war crime, either at court martial or in a civilian court.<sup>85</sup>

**Headquarters Provost Marshal (Army) can provide advice/guidance and examples of standing orders from relevant previous operations.**

2.6. A set of instructions, translated as appropriate, should also be widely published for the CPERS, setting out the behaviour that is expected of them, their rights and the rules that they are to adhere to while held at the CPERS facility. For the purpose of this publication, a captured persons facility is defined as: any facility where captured persons are held in captivity, including unit holding areas, collection points and captured persons holding facilities.<sup>86</sup> These orders should include details of the complaints procedure to follow in the event that they have been mistreated or abused. Additionally, commanders must ensure that copies of standing orders, instructions and announcements for the CPERS are displayed in the CPERS facility and copies of all written orders, regulations and rules are handed to the various CPERS representatives.<sup>87</sup>

85 See Chapter 4, Section 2.

86 This is a modified definition and will be updated in the Joint Doctrine Publication (JDP) 0-01.1, *UK Terminology Supplement to NATO Term*.

87 See Chapter 10, Section 13.

## Consistency of treatment and regime is essential.

2.7. International law requires a copy of the Geneva Conventions and the Additional Protocols to be displayed in every CPERS facility. All of these documents must be posted so that they are available to all CPERS and written in a language which they can understand.<sup>88</sup> When a CPERS is unable to read, the contents of the documents should be explained to them by the facility staff or interpreters. The documents should regularly be checked for damage and defacement and replaced when necessary.

### Risk and vulnerability

2.8. Commanders must be aware of the inherent sensitivities in CPERS handling. The early stages of any CPERS handling activity, such as the point of capture, present greater risks due to the inherently stressful situation and the immediate lack of resources and facilities. Additionally, the restrictive and isolated nature of a CPERS facility can result in abuses, and/or self-harm, being committed unless the right ethos has been instilled in training and supervision is thorough. CPERS are vulnerable to various types of abuse, including physical, mental and psychological, for example, using force, other types of coercion, bullying and sexual abuse. Commanders are responsible for keeping all CPERS safe from all forms of abuse, inflicted and self-inflicted (including bullying). In the early stages of CPERS captivity, it is essential that correct governance is applied over CPERS activity, such as appointing a detention officer (paragraph 4.27). For fixed CPERS facilities, the Force Provost Marshal and/or their Military Provost Staff (MPS) will be responsible for determining individual CPERS 'risk or vulnerability', which must be informed by additional specialists, such as the medical and legal officers.

### Self-induced pressure

2.9. Captivity can be a stressful time for any CPERS. There may be a sense of shame that they have been captured, mingled with relief, and possibly guilt for being alive. Most, apart from willing deserters, will be openly or covertly hostile to UK and allied forces, our ethos and our mission. Experience of what happens to their own captives may inform their long- and short-term view.<sup>89</sup>

88 GC III, Art 41.

89 It should be recognised that some CPERS may become influential leaders during or after captivity.

Collectively these feelings are referred to as self-induced pressures and they naturally diminish during extended captivity as CPERS come to terms with their situation. Such pressures may assist in exploitation of CPERS for intelligence as detailed in Chapter 11, Section 3.

2.10. Conversely, and most importantly, under no circumstances are active measures to be taken to increase self-induced pressures; an unpleasant or disadvantageous environment must not be created or exacerbated, nor can cruel, inhuman or degrading treatment be used to worsen such pressures. Cruel, inhuman or degrading treatment, as well as being unlawful, will further convince the CPERS of the justice of their cause and reinforce their view that our Armed Forces fail to comply with the Law of Armed Conflict and human rights obligations. Humane treatment, however, will help challenge any misconceptions, it may undermine CPERS negative beliefs, and may cause them to reassess their view of the overall situation and, thus, the UK's legitimacy. It will ensure the greatest possibility of successful intelligence exploitation and, in some cases, the complete rejection of the CPERS' previous beliefs and convictions. This in turn may assist the overall campaign, but even if it does not, the potential strategic consequences of failing to be fair in CPERS treatment demands a consistent and just approach in all circumstances.

## Minimum standards and requirements

2.11. The following section sets out the minimum standards and requirements for our Armed Forces dealing with CPERS. These minimum standards apply at all times and in all environments, except as qualified by operational constraints or the exigencies of the situation – this includes the need to ensure the security and force protection of our own personnel, our partners and the civilian population. The underlying principle is that of equivalency. Equivalency means that CPERS will receive basic provisions of an equivalent standard to our deployed Armed Forces in theatre.

- a. **Accommodation.** Where possible, CPERS shall be accommodated in conditions as favourable as those for our Armed Forces.<sup>90</sup> The conditions will in no case be prejudicial to the health of the CPERS. Precautions must be taken against the danger of fire, smoke, flooding and other risks, including indirect fire. The premises will provide CPERS with adequate heat, light and shade. The conditions shall make allowance for the habits and customs of the

<sup>90</sup> GC III, Art 25; Geneva Conventions IV 1949 (GC IV), Art 85.

CPERS. Latrine facilities are to be provided for use both in the day and at night. Access to baths or showers is to be provided, together with sufficient supplies of water for ablutions and laundry. Adequate facilities are to be provided for messing. Further guidance on planning a CPERS facility is at Chapter 6.

b. **Food.**<sup>91</sup> Food shall be sufficient in quantity, quality and variety to keep CPERS in good health and to prevent weight loss or the development of nutritional deficiencies. Each CPERS shall be provided with three meals per 24-hour period, of a similar standard to that of the UK Armed Forces. As a general guide, meal times shall be no closer together than four hours nor further apart than a maximum of ten hours. Account shall be taken of the habitual diet of CPERS and of their cultural and religious needs. The CPERS' physical state, however, may dictate that more regular feeding is required.

c. **Water.**<sup>92</sup> CPERS shall be provided with sufficient drinking water. They must have access to water at all times either on request or by default, where CPERS are given a supply to self ration.



A plentiful supply of fresh drinking water should always be available

91 GC III, Arts 20 and 26; GC IV, Art 89.

92 GC III, Arts 20 and 26; GC IV, Art 89. In accordance with Additional Protocol II 1977 (AP II), Art 5, internees shall be provided with drinking water to the same extent as the local civilian population.

- d. **Health and hygiene.**<sup>93</sup> Health and hygiene standards in all CPERS facilities shall be sufficiently high to keep CPERS in good health. As a minimum, the conditions should be of the same standard as those for our Armed Forces who are collocated. A joint inspection of CPERS facilities by medical officers and environmental health technicians should take place regularly to ensure that the highest possible standards are maintained in the circumstances.<sup>94</sup> Further guidance on health and hygiene standards for CPERS facilities is at Chapter 3, Section 5.
- e. **Protection from the environment.**<sup>95</sup> CPERS shall be afforded sufficient protection against the rigours of the climate and dangers of the armed conflict. CPERS should not be unnecessarily exposed to danger or the elements and, subject to operational circumstances, are not to remain in strong direct sunlight for long periods or without protection from the cold or heat.
- f. **Clothing.**<sup>96</sup> CPERS shall be provided with underclothes, footwear and outer clothing of a type appropriate to the culture and climate of the region in which the CPERS holding facility is located. The CPERS holding facility staff will ensure that this is maintained in a reasonable state of repair and replaced when it is no longer serviceable.
- g. **Sleep and rest.** CPERS shall be given at least eight hours of rest per 24-hour period, during which there shall be an opportunity to sleep for a single undisturbed period of no less than four hours.<sup>97</sup>
- h. **Medical treatment.** CPERS shall be provided with suitable medical and dental care. Details of CPERS medical treatment are at Chapter 3.
- i. **Religious practice.**<sup>98</sup> Subject to short-term operational circumstances, all CPERS shall enjoy freedom to exercise their religious practices. CPERS may receive spiritual assistance from chaplains or other persons, whether retained personnel or otherwise.

93 GC III, Arts 22 and 29; GC IV, Arts 85, 91 and 92.

94 Medical officers will determine the regularity of any such inspections.

95 GC III, Arts 19, 20, 22 and 23; GC IV, Arts 83, 88 and 90.

96 GC III, Arts 20 and 27; GC IV, Art 90.

97 A Defence Science and Technology Laboratory (Dstl) Study Technical Note, DSTL/DOC29938, *Sleep Requirements for Captured Personnel*, July 2008.

98 GC III, Arts 34, 35 and 37; GC IV, Art 93; AP II, Art 5.

j. **Protection from curiosity.**<sup>99</sup> At all times, CPERS shall be protected against insults and public or media curiosity. Photographs are only to be taken for official purposes, for example, establishing identity and evidence gathering. Breaching CPERS privacy may pose a risk to them and their families.

k. **Right to communicate with the International Committee of the Red Cross.**<sup>100</sup> During an international armed conflict, the International Committee of the Red Cross (ICRC) has a right of access and a right to privately interview CPERS.<sup>101</sup> During a non-international armed conflict the ICRC can offer its services to perform similar visits.<sup>102</sup> As a matter of policy, all CPERS shall be provided with information about, and access to, the ICRC as fully and rapidly as practicable. They are also entitled to unfettered correspondence with the ICRC.

l. **Right to communicate generally.**<sup>103</sup> CPERS shall be allowed to send and receive correspondence by means of letters and cards, which can assist in maintaining family contacts.

m. **Right to complain.**<sup>104</sup> CPERS shall have an unrestricted right to complain. Further details on the complaint procedure can be found in Chapter 2, Section 5 and Annex 2B.

n. **Right to exercise.**<sup>105</sup> CPERS shall be allowed a minimum of two hours of exercise in the open air every 24 hours. For best interests, good governance and running the facilities, additional exercise should be considered.<sup>106</sup>

2.12. The standards and requirements described above will be extended to all CPERS to the fullest extent possible, for example, during the early stages of the CPERS handling process. However, the exigencies of the situation, such as resource shortages, may prevent us from being able to fully provide these standards and requirements, keeping in mind the principle of equivalency.

99 GC III, Art 13; GC IV, Art 27.

100 GC III, Arts 81 and 126; GC IV, Arts 30 and 143.

101 GC III, Art 126; GC IV, Art 143.

102 Common Article 3 of Geneva Conventions.

103 GC III, Art 71.

104 GC III, Art 78; GC IV, Art 101.

105 GC IV, Art 125.

106 The Force Provost Marshal and/or their staff will advise on the requirement for additional exercise periods. This will afford good governance and running of the CPERS facility.

## Section 2 – Prohibited acts

CPERS must not be subjected to torture, cruel, inhuman or degrading treatment, punishment, intimidation or violence in any form.

The threshold of cruel, inhuman and degrading treatment may also be reached from an aggregation of conditions which, if taken in isolation, may individually appear to be acceptable.

2

2.13. There are no circumstances in which torture, cruel, inhuman or degrading treatment can ever be justified.<sup>107</sup> Our Armed Forces are required by law to act humanely towards all CPERS. To that end, certain specified acts, as listed below, are absolutely prohibited in all circumstances, irrespective of the nature of the operation or category of the CPERS. Anyone who breaches these prohibitions can expect to be charged with offences under Service law, domestic law or international criminal law.<sup>108</sup>

It is forbidden to take or distribute photographs, or otherwise make images, of CPERS (dead or alive) for personal reasons.

2.14. In accordance with the 1949 Geneva Conventions, the 1977 Additional Protocols, the 1998 Rome Statute of the International Criminal Court,<sup>109</sup> the International Covenant on Civil and Political Rights and Customary International Law and UK domestic law, the following are prohibited acts.

.....  
107 For details on the elements of crimes of cruel, inhuman and degrading treatment see Chapter 4, Section 2.

108 See Chapter 4.

109 Implemented into British law by the International Criminal Court Act, 2001.

## Prohibited acts

Violence to the life, health and physical or mental well-being of CPERS, in particular murder as well as cruel treatment and torture, mutilation or any form of corporal punishment<sup>110</sup>

Collective punishments<sup>111</sup>

Taking hostages<sup>112</sup>

Acts of terrorism

Slavery and the slave trade in all their forms<sup>113</sup>

Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, sexual slavery, enforced prostitution, forced pregnancy, forced sterilisation and any other form of sexual violence<sup>114</sup>

Theft, obtaining by deception and pillage (to steal by force)

Physical mutilation or medical/scientific experiments of a kind which are neither justified by medical, dental or hospital treatment of the person concerned, nor carried out in their interest<sup>115</sup>

Passing sentences and carrying out executions without previous judgement pronounced by a properly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples<sup>116</sup>

Reprisals<sup>117</sup>

Taking or possessing photographs of live CPERS or dead bodies for any reason other than official purposes of identification, evidence or intelligence<sup>118</sup>

Identification by tattooing or imprinting permanent signs or markings on CPERS<sup>119</sup>

Threats to commit any of the foregoing acts

110 Common Article 3 of the Geneva Conventions, GC III, Art 13; GC IV, Art 27; AP I: Arts 11 and 75; AP II, Art 4, International Criminal Court Act 2001 Schedule 8, Article 7, paragraph 1 and Article 8, paragraph 2.

111 AP I, Art 75; AP II, Art 4. This forbids inflicting punishments upon the population on account of the acts of individuals for which the general population cannot be regarded as responsible, for example, destroying houses in a village where the offender is an inhabitant.

112 Common Article 3 of the Geneva Conventions, AP I, Art 75; AP II, Art 4, International Criminal Court Act 2001 Schedule 8, Article 8, paragraph 2.

113 International Criminal Court Act 2001, Schedule 8, Article 7, paragraph 1. As stated in GC IV, Arts 40, 95 and 96 and GC III, Arts 49, 50 and 62 internees and detainees may not be set to work. Enlisted prisoners of war may be required to engage in labour having no military character or purpose. Non-commissioned officer prisoners of war may be required only to perform supervisory work. Officers may not be required to work, although they may volunteer. Suitable arrangements for payment should be put in place.

114 Common Article 3 of the Geneva Conventions, AP I, Arts 75 and 76; AP II, Art 4, International Criminal Court Act 2001 Schedule 8, Article 7, paragraph 1 and Article 8, paragraph 2.

115 AP I, Art 11; AP II, Art 4.

116 Common Article 3 of the Geneva Conventions, GC II, Arts 82-88 and 99-108; GC IV, Art 117; AP I, Art 75; AP II, Art 4.

117 Reprisals are acts that would normally be illegal taken by a belligerent to suppress illegitimate acts of warfare by the adversary and are only permissible in narrowly defined circumstances. See Joint Service Publication (JSP) 383, *The Joint Service Manual of the Law of Armed Conflict*, paragraph 5.18.

118 GC III, Art 13; GC IV, Art 27.

119 GC IV, Art 100.

## The prohibited five techniques

2.15. Following the introduction of internment in Northern Ireland in the early 1970s, a number of individuals captured and held by the police and UK Armed Forces made allegations of inhuman treatment during their period of captivity. On 2 March 1972, the UK Prime Minister Edward Heath stated in the House of Commons:

‘The Government, having reviewed the whole matter with great care and with reference to any future operations has decided that the five techniques...will not be used in future as an aid to interrogation...The statement that I have made covers all future circumstances.’

The techniques in question were hooding, wall-standing, subjection to noise, deprivation of sleep and deprivation of food and drink. The UK government prohibited these five techniques as an aid to interrogation.

2.16. On 8 February 1977 in proceedings before the European Court of Human Rights, the Attorney General stated:

‘The Government of the United Kingdom has considered the question of the use of the ‘five techniques’ with very great care and with particular regard to Article 3 of the [European] Convention [on Human Rights]. They now give this unqualified undertaking that the ‘five techniques’ will not in any circumstances be reintroduced as an aid to interrogation.’<sup>120</sup>

2.17. In *Ireland v UK* (Application 5310/71), the European Court of Human Rights gave its judgment on the use of the five techniques and concluded:

‘Although the five techniques, as applied in combination, undoubtedly amounted to inhuman and degrading treatment, although their object was the extraction of confessions, the naming of others and/or information and although they were used systematically, they did not occasion suffering of the particular intensity and cruelty implied by the word torture as so understood. The Court concludes that recourse to the five techniques amounted to a practice of inhuman and degrading treatment, which practice was in breach of Article 3.’<sup>121</sup>

This judgment was a condemnation of the five techniques, which amounted to a breach of the right not to be subjected to inhuman or degrading treatment.

<sup>120</sup> *Ireland v UK* (5310/71), paragraph 102, 18 January 1978.

<sup>121</sup> *Ibid.*, paragraphs 167 and 168.

2.18. The prohibited five techniques have been redefined following intense scrutiny during the 2010 Baha Mousa public inquiry.<sup>122</sup> The prohibited five techniques are as follows.

- a. **Stress positions.** Any physical posture which a CPERS is deliberately required to maintain will be a stress position if it becomes painful, extremely uncomfortable or exhausting to maintain.
- b. **Hooding.** Placing a cover over a CPERS' head and face.<sup>123</sup>
- c. **Subjection to noise.** Holding a CPERS in an area where there is unnecessary excessive noise.<sup>124</sup>
- d. **Deprivation of sleep and rest.** Depriving a CPERS of the minimum requirement of sleep and rest.<sup>125</sup>
- e. **Deprivation of food and water.** Depriving a CPERS of the minimum requirement of food and water.<sup>126</sup>

The prohibited five techniques, as redefined above, must never be used as for any purpose, but in particular:

- an aid to tactical questioning or interrogation;
- a form of punishment;
- a form of discrimination;
- intimidation;
- coercion; or
- deliberate mistreatment.

2.19. Commanders must ensure that the prohibition of the five techniques is contained in standing orders, which are to be displayed and available to all our Armed Forces, particularly those working within CPERS facilities. In addition, reference to the five techniques and the prohibition of their use must be included in all training packages and doctrine dealing with the treatment of CPERS. It must be clear to all our Armed Forces that any breach of these prohibitions will result in an investigation and, where appropriate, disciplinary action.

122 Baha Mousa was a 26 year old receptionist who died while being held in a UK CPERS facility in Basra in September 2003.

123 A cover includes a sandbag. See also paragraphs 2.21 and 2.24 for further guidance on what is permitted.

124 Unnecessary excessive noise includes noise which is too loud, persistent or close.

125 See Chapter 2, Section 1.

126 See Chapter 2, Section 1.

The prohibited five techniques must never be used as an aid to tactical questioning or interrogation, as a form of punishment, discriminatory conduct, intimidation, coercion or as deliberate mistreatment.

HOODING IS PROHIBITED IN ALL CIRCUMSTANCES

## Section 3 – Guidance on control of captured persons

2.20. Despite the above, it is recognised that there are entirely lawful activities arising from operational circumstances that may incidentally result in instances which necessitate CPERS being held in, or transported between, facilities which by their temporary nature, crude construction, the security environment or limited logistic support result in some discomfort. This may cause CPERS to suffer uncomfortable restraint positions, temporary sleep disruption, exposure to excessive noise and limited food and water, all because of the exigencies of the situation.

2.21. Whenever any of the circumstances referred to in this section arise, all reasonable steps should be taken to mitigate such conditions which must be for the minimum duration possible. In circumstances resulting in sleep disruption, limited food and water and subjection to noise, the general rule is that the conditions for the CPERS, as a minimum, should be equivalent to the conditions experienced by those UK Armed Forces who are collocated with the CPERS. The reason for the activity (resulting in the discomfort), and the context in which it is carried out, will be crucial in determining its legitimacy. Recording the reasoning, with photos may be appropriate. The following guidance is in accordance with the Chairman's Report of the Baha Mousa Inquiry.<sup>127</sup>

- a. **Search positions.** It will be necessary to search CPERS. This may require the individual to adopt a posture with limbs spread, albeit only for the purposes of the search and only for as long as the search is conducted. If such a search position is imposed, the CPERS must be allowed to change position regularly to prevent pain and exhaustion. Account should be taken of the age and physical fitness of the CPERS to moderate search positions.

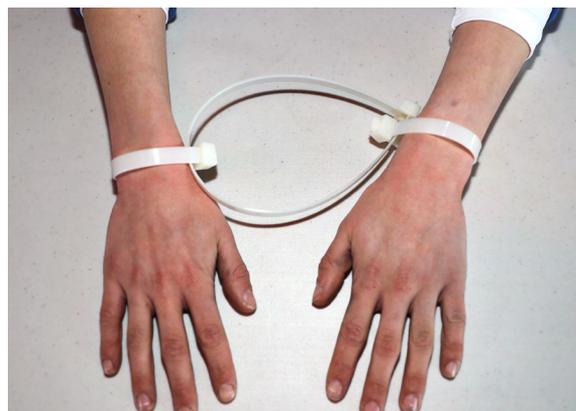
.....  
<sup>127</sup> *The Report of the Baha Mousa Inquiry*, 8 September 2011.

b. **Restraint positions.** There may be an operational requirement to use a restraint position on CPERS as a temporary measure to gain control of a situation. For example, restraint may be necessary where an individual is attempting to escape or is assaulting those engaged in handling or tactical questioning and interrogation. If such restraint positions are imposed, it must be for the shortest period of time and the CPERS must be allowed to change position regularly to prevent pain, extreme discomfort or exhaustion, and positional asphyxia.<sup>128</sup>

c. **Restraint equipment.** Circumstances may also require using restraining equipment, for example, plasticuffs, specifically issued for such purposes to personnel engaged in CPERS handling. These must only be applied to the hands in front of the body as shown and must in all circumstances allow for normal blood circulation.



The correct way to apply plasticuffs



The correct way to apply plasticuffs

d. **Restriction of vision.** Where practicable, the need to deprive CPERS of their sight should be avoided in the first place by common sense steps such as appropriately:

- o designing and laying out facilities;
- o planning operations;
- o choosing routes; and
- o covering up equipment.

<sup>128</sup> Positional asphyxia is a potential danger for some physical restraint techniques that a CPERS may be placed in. CPERS must be allowed to change position regularly.

All efforts should be taken to avoid the need for CPERS to ever be present in, or pass through, sensitive areas.<sup>129</sup> Restricting CPERS' vision may be achieved by travelling in enclosed vehicles, or vehicles with windows covered. Even if it is impracticable to avoid CPERS seeing facilities layout and/or location or equipment in the first place, there must be a genuine sensitivity about the facilities or equipment before sight deprivation can be justified. Where, on a case-by-case basis, no other physical alternative is available and no other measure is possible, CPERS may be required to wear blacked-out goggles (as shown in the image) specifically issued for that purpose. The following points should be adhered to.

- o If no blacked-out goggles are available, a blindfold may be improvised.
- o Any improvised blindfold must not be designed to cause pain.



**Blacked-out goggles or blindfolds should only be used as a last resort**

- o Blacked-out goggles or blindfolds (not covering the mouth or nose) should only be employed as a last resort and for the time and extent necessary, for example, to preserve operational security or to ensure safety and the anonymity of CPERS and/or locally employed civilians or other parties whose identity should be protected.
- o Recognising the potential for unanticipated situations in different operational theatres, a decision on the need to protect the anonymity of other parties should be reflected in operation-specific standard operating instructions and procedures on CPERS activities.

- o Sight deprivation should not be used as a means of separating CPERS to prevent them from communicating with each other.
- o Sight deprivation should not become routine.

<sup>129</sup> Both for reasons of operational security and to avoid making CPERS the object of curiosity.

- o Sight deprivation must be justified by the operational circumstances on the ground or to ensure the safety and anonymity of the CPERS.
- o CPERS must not be subjected to tactical questioning or interrogation while their sight is deprived.

e. **Excessive noise and restriction of hearing.** Holding facilities may be inherently noisy places, but steps should be taken to reduce noise levels and mitigate such conditions, or consideration must be given to providing CPERS with ear protection. Noise must not be deliberately directed at, or increased in the vicinity of, CPERS, even for security purposes. Furthermore, all efforts should be taken to avoid the need for CPERS to ever be present in, or pass through, genuinely sensitive areas. Facility design should, where practicable, avoid the risks of CPERS hearing sensitive information, including others being questioned. Where strictly necessary, for example, in areas that are genuinely sensitive, ear defenders may be used to prevent CPERS overhearing sensitive information, but only for the time and extent necessary to preserve operational security; generators or other loud equipment should not be used as noise shields.

f. **Reduced food and water.** The quality and the variety of food available for CPERS may differ according to the operational circumstances. In addition, the food and the cooking facilities during the early stages of CPERS handling may not be of the same standard as those in the CPERS holding facility. Circumstances may require food to be rationed. CPERS should receive the same amount and quality of food as our Armed Forces; the principle of equivalency should be applied. CPERS may be put on a special diet if directed by a medical officer as part of the CPERS' medical care. Even if restraint equipment is applied, the CPERS should be provided with drinking water when required.



Even if restraint equipment is applied, CPERS should be provided with drinking water when required

g. **Disruption of sleep.** It is prohibited to deliberately keep CPERS awake, even for short periods, merely because they may shortly face tactical questioning or interrogation. They may be woken to be tactically questioned or interrogated if the questioning is ready to take place, provided that the minimum sleep requirement is respected.<sup>130</sup> Aside from being woken for questioning, it is also recognised that operational circumstances may result in sleep being disrupted or delayed. Moreover, CPERS may need to be woken or disturbed for reasons of the CPERS' safety or welfare. It may be difficult to ensure CPERS receive the minimum sleep requirement during transfer between facilities. The discretion to wake a CPERS for immediate questioning is not to be abused by way of repeated or random waking of the CPERS with a view to disorientation. In addition, CPERS should not be regularly subjected to sleep disruption.

2.22. Depriving CPERS of sight or hearing and applying restraints will only be appropriate in the very limited circumstances when they are strictly necessary for operational reasons or the safety and anonymity of the CPERS and/or locally employed civilians and other parties, and no lesser measure will suffice. When the reason no longer exists, such treatment must cease immediately. Where practicable, CPERS who are subjected to sight or hearing deprivation should be told the broad reasons for it. If being deprived of their sight for some or part of a journey by road or air, as well as ensuring that the sensory deprivation is kept to the minimum time strictly necessary, CPERS should be told in a language which they understand, in general terms, where they are being taken. Simple phrases in relation to sight deprivation should be included in mission-specific language training.

2.23. As soon as practicable, a record should be made of every occasion when sensory deprivation takes place (such as, when wearing blacked-out goggles or ear defenders has been used); this is to include the date and time, duration, a brief explanation of the circumstances and the justification, and the details of the Service person who authorised the sensory deprivation. This information should be included in the CPERS' record of captivity.

2.24. A CPERS may make a request, for example, to:

- be concealed under a blanket for fear of being identified by other CPERS or local nationals (for example, interpreters or contractors);
- wear a veil or head dress for religious or cultural purposes;

.....  
130 See paragraph 2.11g.

- wear head protection against the dangers of conflict; or
- wear a hat or other head garment for protection against the climate.

Provided the aforementioned are requested by the CPERS, they do not violate the prohibition of hooding. A record must be kept of every such request including the date/time, a brief explanation of the request and the details of the Service person who authorised the action.

2.25. Aids to senses, including spectacles and hearing aids, must never be removed from CPERS except during a search (but only for the minimum time necessary) or where it is absolutely necessary (for example, if the individual is on suicide watch and it is believed the items may be used to self-harm).

**CPERS handling requires firm command, leadership and a strong commitment to treating individuals humanely and with decency.**

2.26. The examples given above are by no means exhaustive. Every CPERS must be considered as an individual. What may not be considered as discomfort or stressful to one person may be extremely uncomfortable to another. Whenever there is doubt as to whether a particular activity is inappropriate or unlawful, advice should always be sought from the Force Provost Marshal, a medical professional and legal adviser in theatre and/or from Permanent Joint Headquarters (PJHQ) J9. Using reasonable force in self-defence is always permitted, when necessary and proportionate.

## Section 4 – Special treatment for certain groups of captured persons

2.27. Certain groups of CPERS are entitled to special treatment and care. Specific medical treatment relating to these groups can be found in Chapter 3, Section 4. The groups of CPERS requiring special treatment and care are detailed below.

### Juveniles and children

2.28. Apart from the general guidance contained in Additional Protocol I, Article 77, the Geneva Conventions and Additional Protocol I make no

specific provision for the capture and treatment of juveniles, although Geneva Convention IV does include limited provisions relating to the protection of children. Therefore, for each operation, it will be necessary for the Ministry of Defence (MOD) to establish a policy for handling juveniles, which will conform with human rights law and the humanitarian principles of the Geneva Conventions.<sup>131</sup> Advice should be first sought from the Force Provost Marshal and legal advisers on managing juveniles and children. The Force Provost Marshal should seek assistance from the ICRC if necessary. However, medical staff, padre and potentially some appropriate non-governmental organisations could also provide advice and assistance if desirable.

2.29. For the purpose of this publication, captured juveniles are defined as: captured persons aged 15, 16 or 17.<sup>132</sup> The following guidance reflects the basic legal position regarding the treatment of juveniles.

- a. CPERS who are, or are judged to be, juveniles shall be processed through the same administrative and induction arrangements as adult CPERS. However, where possible, juveniles will be separated from other CPERS during these processes.
- b. Juveniles should be accommodated separately from all adult and child CPERS, except where they are part of a family group. Male and female juveniles shall be accommodated separately. However, juveniles could suffer from isolation and therefore careful consideration should be given for them to associate with adult CPERS at certain times, for example, communal prayer time, exercise and feeding. Such association must be planned and supervised closely at all times.
- c. The ICRC will provide advice and assistance to the care, handling and repatriation of juvenile CPERS and early liaison is essential. Juvenile internees and detainees may be transferred to the host nation authorities or to another nation's authorities, but such transfers will be governed by MOD policy.
- d. Initial questioning of juveniles can be carried out to establish the true identity and age of the individual.<sup>133</sup> Subsequent tactical questioning and interrogation of juveniles is not prohibited in law;

131 The Operations Directorate are responsible for the UK policy on juveniles.

132 JDP 0-01.1, *UK Terminology Supplement to NATOTerm*.

133 See Chapter 11, Section 2 on the distinction between initial questioning and tactical questioning.

however, the MOD will issue operation-specific guidance on whether this is permitted as a matter of policy. Such policy will have due regard to the juvenile's age, any special condition and vulnerability, as well as the military benefit to be derived.

2.30. For the purpose of this publication, captured children are defined as: captured persons aged 14 and under.<sup>134</sup> The following guidance reflects the legal position for the treatment of children.

- a. Children should not be held in captivity unless captured to prevent imminent danger to our Armed Forces. If they are detained, this should be for the shortest possible period of time. Children must be housed in separate quarters from adults and juveniles, unless they are part of a family group.<sup>135</sup> In certain circumstances, those under the age of 15 may be removed from a location to be protected from danger.
- b. Children must be guarded by a minimum of two UK personnel specially selected for this task. At least one of them, where possible, should be of the same gender as the captured children. It should be noted that it may be culturally inappropriate for male teenagers to be guarded by female Service personnel and vice versa.
- c. Children are not to be tactically questioned or interrogated.
- d. For each operation, the UK MOD must issue specific guidance regarding transferring or releasing children who have been captured.<sup>136</sup>

2.31. There may be instances where CPERS do not know, are unwilling to reveal, or mislead us about their date of birth to avoid tactical questioning or interrogation. It may be extremely difficult to ascertain the age of young CPERS. Such a CPERS will be considered to be a child until more detailed checks can be made. Assessment of age will be made by, or on behalf of, the Detention Authority, taking into account all relevant evidence, particularly the medical officer's and dental officer's assessment. The role of the medical and dental officers is at Chapter 3. If an individual reasonably claims or is assessed to be less than 15 years of age, the individual should be treated as a child.

.....  
134 This is a modified definition and will be updated in JDP 0-01.1, *UK Terminology Supplement to NATO Term* – derived from AP I, Art 77.

135 Consideration must be given to the potential effects of holding children separately, particularly where we hold very few.

136 The Operations Directorate are responsible for the UK's policy on children.

2.32. All officers responsible for CPERS facilities must take particular care and attention when holding juveniles, children or vulnerable persons. They have an obligation to care for them in a manner that takes account of their age and particular care and attention requirements. Juveniles and children are more vulnerable than adults and must be protected from violence or abuse. They are to be treated with special respect and shall be protected from any form of assault. In addition, they will be provided with the care and assistance they need, whether due to their age or for any other reason.

2.33. The regime for juveniles and children should emphasise education and skills training in keeping with relevant cultural and religious precepts. J1 should seek to establish links with those non-governmental organisations working with young people beyond the CPERS holding facility to extend the range of programmes available to young CPERS, particularly in physical, cultural and social activities.<sup>137</sup>

2.34. A high priority should be given to maintaining and developing links between juveniles and children and their families. Families should be encouraged to visit the CPERS holding facility as often as is feasible and to maintain contact by letter or other available communications means. The CPERS holding facility commandant needs to pay special attention to the environment in which visits take place, affording as much privacy and informality as possible.

2.35. In many countries, a significant proportion of juveniles may have lost contact with their families before, or as a result of, their period in captivity. CPERS holding facility commandants will need to give particular attention to identifying those young people who may want and need additional support in re-establishing links with their families or for whom family links have irrevocably broken down. Our Armed Forces should request assistance from the ICRC in establishing family links. In addition, where operational circumstances allow, depending on the nature of the operation and the duration of the period in captivity, the commandant should aim to ensure some sort of purposeful activity or training for juveniles, on which the ICRC's advice may be sought. The main purpose should be to avoid returning the young persons, where practicable, to malign social influences. It will be important to enlist the help of the relevant government and non-government agencies, including those of the host nation, in designing and delivering appropriate resettlement programmes.

.....  
137 For example, the United Nations International Children's Emergency Fund or Save the Children.

## Women and girls

2.36. On 31st October 2000, United Nations Security Council Resolution 1325 was passed. It was the first formal and legal document from the United Nations Security Council that required parties in a conflict to prevent violation of women's rights, to support women's participation in peace negotiations and post-conflict reconstruction, and to protect women and girls from sexual and gender-based violence in armed conflict. The MOD and the single Services have ongoing initiatives and are making policy to implement the Resolution.<sup>138</sup>

2.37. The captivity of female CPERS may be culturally sensitive. Due regard must be given to females' physical strength, the need to protect them against rape, forced prostitution and other forms of sexual violence or abuse, and the special demands of biological factors such as menstruation, pregnancy and childbirth, as well as meeting culturally specific requirements. Pregnant CPERS and mothers of dependant children must have their cases considered with the utmost priority. Female CPERS shall in all cases benefit from treatment as favourable as that granted to male CPERS.<sup>139</sup>

2.38. Women and girls must be kept in separate accommodation from males.<sup>140</sup> Female CPERS should be under the immediate supervision of female Service personnel where possible.<sup>141</sup> Guidance should be taken from the work of the United Nations concerning sexual violence in conflict.<sup>142</sup>

## Family groups

2.39. In cases where families are detained or interned, if at all possible, and unless there is an urgent operational requirement to segregate specific family members, they should be kept together as family groups and accommodated separately from other categories of CPERS.<sup>143</sup>

.....  
138 See also the International Committee of the Red Cross study, *Women facing War 2002*. It considers the impact of armed conflict on the lives of women.

139 GC III, Art 14.

140 GC IV, Art 76.

141 Female supervision may not be available at the early stages of an operation or in the maritime environment if the ship is not manned by a mixed crew.

142 See *UK National Action Plan on Women, Peace and Security 2018 – 2022*, and JSP 1325, *Human Security in Military Operations*.

143 AP I, Art 75(4).

## Vulnerable captured persons

2.40. For the purpose of this publication, a vulnerable CPERS is defined as: an individual who by reason of mental or other disability, age, illness or other grounds, is or may be unable to take care of themselves; or is unable to protect themselves against significant harm or exploitation; or is dependent on others for assistance in the performance of basic physical functions.<sup>144</sup>

2.41. Where CPERS are identified by the commander (having taken advice where practicable from the doctor, Force Provost Marshal and legal adviser) as being vulnerable they are to be managed according to need. Those who require medical treatment are to be treated by medical staff; those who are considered vulnerable, but do not require medical attention should be managed accordingly. Our Armed Forces must, at all times, secure the safety of any vulnerable CPERS. Any CPERS who is considered to be a vulnerable person must be protected, and their conditions and treatment supervised accordingly. If appropriate, depending on the vulnerable persons particular circumstances, they are to be separated from all other CPERS, except for appropriate carers or family members. Extra care must be taken to ensure they are protected from any abuse or mistreatment by other CPERS.

## Section 5 – Complaint procedure

2.42. CPERS shall have an unrestricted right to complain to:

- the ICRC representative;
- their respective CPERS representative;
- where nominated, the protecting power;<sup>145</sup> or
- our Armed Forces directly.<sup>146</sup>

CPERS must be briefed on this as part of their in-processing brief to the facility.<sup>147</sup> On entering and exiting a CPERS holding facility, CPERS are to be asked whether they have any complaints concerning their treatment. This should not be done in the presence of the capturing Service personnel or unit. The Force Provost Marshal must establish practical and effective

144 This is a modified definition and will be updated in JDP 0-01.1, *UK Terminology Supplement to NATOTerm*.

145 For further details on the protecting power see Chapter 4, Section 4.

146 An example of 'it is your right to make a complaint' sign that would be displayed in a CPERS holding facility can be found at Annex 2B.

147 GC III, Arts 50 and 78.

arrangements for complaints in respect of captivity before reaching the CPERS holding facility.<sup>148</sup> If any CPERS are considered to be vexatious or serial complainers, advice must be sought from the legal adviser. For details on the CPERS' representative see Chapter 10, Section 13. Commanders must ensure that the process and procedure for making complaints are displayed in all CPERS facilities and are available to all CPERS in the languages necessary for all CPERS to understand. Any complaints are to be recorded in the CPERS record (MOD Form 2300B), see Annex A, Section 2.

2.43. Complaints must not be edited or altered in any way and are to be forwarded immediately. Even if complaints are unfounded, no punishment may be imposed on the complainant. It is important to recognise that the absence of complaints does not, in itself, prove that all is well; experience of custodial systems has shown that the absence of complaints may be indicative of a lack of faith in a system or a fear of reprisals. Independent inspections, however, help to counter allegations of mistreatment where no specific complaints arise.

**CPERS have an unrestricted right to complain.**

2.44. If a CPERS complains that they have suffered some form of abuse or been mistreated in any way, the person receiving the complaint is to report it to their chain of command and the Service police immediately and summon medical assistance if required. The details of all complaints must be recorded in full in the personal file of the CPERS, including details of the actions taken to investigate and resolve the complaint. It is the responsibility of the chain of command to ensure that all complaints have been brought to the attention of the Service police without delay.<sup>149</sup> The information required should include:

- what has been alleged;
- who was involved;
- the place, date and time of the alleged incident; and
- what the person receiving the allegation did about it.

An immediate actions drill for adverse incidents is at Annex 13B.

.....  
148 See paragraph 4.31.

149 Commanding officers should also be mindful of their duties under Sections 113 and 114 of the Armed Forces Act 2006 to notify the Service police in certain circumstances.

2.45. The Service police are mandated to conduct an effective investigation of all complaints. As well as being a legal requirement, such investigations bring benefits to the force in terms of force protection, maintaining our reputation and providing a comprehensive record. A copy of the complaint form contained in the individual's CPERS record (MOD Form 2300B) will be taken by Service police for investigation.<sup>150</sup>

2.46. The chain of command must make sure that the legal adviser, PJHQ, including J9 legal, and Provost Marshal (Army) are copied in on all allegations and complaints. PJHQ should ensure that the ICRC (or other applicable representative power) is notified of the details of complaints, whether the complaints are against UK Armed Forces, the host nation authorities or allies. In the case of a serious complaint, this must be done immediately. In cases of less serious complaints, this can be done during routine visits.

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150 See Annex A, Section 2.

## Annex 2A

# Guidance on standing orders

2A.1. Commanders must ensure that, as a minimum, the topics listed below are included in standing orders for captured persons (CPERS) facilities and that the standing orders are displayed in all facilities.

2A

Topic	Guidance
Humane treatment	<p>Make it clear that all CPERS are to be treated humanely at all times.</p> <p>Forbid the prohibited acts, including the five techniques.</p>
Authorised access list <sup>151</sup>	<p>Emphasise that access to CPERS will be strictly limited to those individuals who need, and are authorised to have, access to CPERS.</p> <p>Maintain and update a list of individuals authorised to visit CPERS.</p> <p>Deny entry to all others seeking access to CPERS unless authorisation from the officer in charge of the facility has been granted for a legitimate military purpose.</p> <p>Maintain a record of all individuals who have had access to CPERS, including reasons and timings, even if their names appear on the authorised list.</p>
Geneva Conventions	<p>Display a copy of the Geneva Conventions and make available to all CPERS in a language that they understand.</p> <p>As part of their in-processing, provide CPERS with a verbal brief on the contents of the Geneva Conventions.</p> <p>Provide assistance to those CPERS who are unable to read to ensure that they understand their rights and entitlements.</p>
Complaints procedures	<p>Display a copy of the complaints procedure for CPERS in a language that they understand.</p> <p>Explain to CPERS the procedure on how to make a complaint.</p>

<sup>151</sup> The authorised access list is to include only those staff authorised for direct access, which will include General Officer Commanding, Chief of Staff, policy adviser and legal adviser.

Topic	Guidance
Access to International Committee of the Red Cross (ICRC)	State the procedure for any ICRC visit, including access to CPERS. (An example 'right to contact the ICRC' poster can be found at Annex 4B.)
Daily routine	<p>Publish a daily routine that shows key timings, such as meal timings, medical checks and prayer timings. As part of the in-processing brief, verbally brief CPERS on the daily routine.</p> <p>All CPERS will be routinely searched. (An example search poster can be found at Annex 7A.)</p> <p>All CPERS have a right to request to see a doctor. (An example 'right to see a doctor' poster can be found at Annex 3B.)</p>
Water and feeding	<p>Ensure that drinking water is available to CPERS at all times.</p> <p>Ensure that food is equivalent to that given to our own forces, with due allowance made for cultural and religious differences.</p>
Governance	<p>Identify who has direct responsibility for CPERS at any time.</p> <p>Identify the chain of command in respect of the facility.</p> <p>Stipulate the procedures for management checks to ensure the humane treatment of the CPERS.</p>
Actions on	<p>As part of their in-processing, provide CPERS with:</p> <ul style="list-style-type: none"> <li>• equipment and personal protective equipment (for example, helmets, combat body armour, and life jackets), as required; and</li> <li>• a verbal brief highlighting:<sup>152</sup> <ul style="list-style-type: none"> <li>o actions to be taken in the event of incoming fire;</li> <li>o procedures to be followed in the event of an adverse incident involving CPERS; and</li> <li>o the need to notify guards immediately if a CPERS falls ill or dies.</li> </ul> </li> </ul>
Fire	<p>Fire safety measures and other emergency procedures.</p> <p>Actions to be taken in the event of a fire.</p>
Reporting violations	Report to the chain of command and the Service police all violations of the Law of Armed Conflict and other applicable law (including breach of any standing orders for any CPERS facilities).

<sup>152</sup> Consideration should be given to providing such briefs via video or audio means where there are insufficient interpreters.

## Annex 2B

# Example of a complaint sign

2B.1. All signage and notices need to be checked for cultural sensitivity and relevance and be specific for individual operations, taking into account the divergent CPERS population. It is impossible to produce standardised signage and notices applicable in all situations.

2B

It is your right to make a complaint



Speak to a member of staff for help



# Chapter 3

Chapter 3 provides direction on the standards of medical support that should be provided to CPERS held by UK Armed Forces while on operations and outlines the legal provisions and ethical principles that underpin these standards.

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While in legal terms the Geneva Conventions only apply in their entirety to international armed conflicts, the humanitarian principles that underpin them will be applied at all times as a matter of policy in the medical management of all CPERS.



## Chapter 3

# Medical support to captured persons

## Section 1 – Legal and ethical principles

3.1. While it is not possible to cover every captured persons (CPERS) eventuality, the provisions and principles outlined in this chapter (in conjunction with good medical practice and health care governance) shall govern conduct whenever there is medical involvement with CPERS. Whenever any member of the Defence Medical Services staff are involved with CPERS issues, they are to comply with their professional obligations for optimum professional practice as stated by their respective professional regulatory bodies (medical practitioners,<sup>153</sup> dental practitioners, (dentists, dental hygienists and dental nurses),<sup>154</sup> nurses and midwives,<sup>155</sup> pharmacists<sup>156</sup> or allied health professionals<sup>157</sup>).

3.2. While in legal terms the majority of the provisions of the Geneva Conventions only apply in international armed conflicts, the humanitarian principles that underpin them will be applied at all times as a matter of policy in the medical management of all CPERS.

3.3. The contents of this chapter should be read in conjunction with the whole of this publication, and understood by all Defence Medical Services staff who may be liable for deployment or involved in planning medical provision on operations.<sup>158</sup> Particular attention must be paid to Chapter 2 as it sets out the minimum standards of treatment for all CPERS.

153 General Medical Council (GMC), *Good Medical Practice*, 25 March 2013 (updated 29 April 2019).

154 General Dental Council, *Standards for Dental Professionals*, 30 September 2013.

155 Nursing and Midwifery Council, *The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates*, 28 January 2015 (updated 10 October 2018).

156 General Pharmaceutical Council, *Standards for Pharmacy Professionals*, May 2017.

157 Health and Care Professions Council, *Standards of conduct, performance and ethics*, 1 August 2012 (updated January 2016).

158 Further guidance may also be found in the International Committee of the Red Cross (ICRC), *Health Care in Detention: A Practical Guide*, January 2017 and ICRC *Health Care in Danger: The responsibilities of health-care personnel working in armed conflict and other emergencies*, August 2012.

## United Nations *Principles of Medical Ethics*<sup>159</sup>

3.4. The United Nations (UN) has issued a set of ethical principles that relate to health care personnel's involvement when treating CPERS. These principles of professional conduct apply at all times.

### Principle 1 – Duty to treat

Health personnel, particularly physicians, charged with the medical care of CPERS have a duty to provide them with protection of their physical and mental health and treat disease to the same quality and standard as is afforded to those who are not imprisoned or detained.

### Principle 2 – Prohibition of mistreatment

It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

### Principle 3 – Professional relationships

It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with CPERS the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

### Principle 4 – Impartiality of treatment

It is a contravention of medical ethics for health personnel, particularly physicians, to:

- apply their knowledge and skills to assist in interrogating a CPERS in a manner that may adversely affect the physical or mental health or condition of such CPERS and which is not in accordance with the relevant international instruments; or
- certify, or to participate in certifying, the fitness of CPERS for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments.

<sup>159</sup> United Nations (UN) (1982) *Principles of Medical Ethics in the Protection of Prisoners and CPERS against Torture and Other Cruel, Inhuman or Degrading Treatment*, General Assembly Resolution 37/194.

### Principle 5 – Restrictions on restraint

It is a contravention of medical ethics for health personnel, particularly physicians, to participate in any procedure for restraining a CPERS unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the CPERS himself, of his fellow CPERS, or of his guardians and presents no hazard to his physical or mental health.

### Principle 6 – Prohibition of derogation

There may be no derogation from the foregoing principles on any grounds whatsoever, including public emergency.

3

3.5. The information below offers further guidance and direction pertaining to the principles.

a. While medical documents must be held separately from other official CPERS records, the latter must be annotated that a medical examination has taken place and may include any specific instructions issued by medical staff that are necessary to safeguard the CPERS or facilitate their ongoing care. Standards of medical care, confidentiality and documentation should be equivalent to those applied to members of our Armed Forces.

b. If health care personnel become aware of, or suspect, mistreatment they have a duty to immediately report this to the operational chain of command, the Service police and legal adviser, as well as to the medical chain of command.

c. Health care personnel are only to be involved in professional relationships with CPERS for the purposes of evaluating, protecting or improving their physical and mental health. Health care personnel must not engage in the following.

(1) Apply their knowledge and skills to assist in questioning CPERS in a manner that may adversely affect the CPERS' physical or mental health; this includes certifying or stating that a CPERS meets a specific mental or physical standard for questioning because this could never be considered as benefiting their health. Based on the principle that medical staff must act in the best interests of their patient, the practice of declaring someone as fit for captivity or questioning is incompatible with the role of medical staff.

(2) Have any role in the imposition of disciplinary sanction or other restrictive measures.

(3) Question CPERS about matters, unless they are relevant to their medical care.

d. At any time, medical staff must advise the chain of command if a CPERS is unfit to take part in a specific activity on the grounds of poor health (including mental capacity). In exceptional circumstances, the Joint Force Commander, however, may decide not to accept the medical advice.<sup>160</sup> Should this happen, a record of the fact and the reasons for the Joint Force Commander's decision are to be kept with the CPERS' medical records.

e. CPERS must be protected from being subjected to public curiosity. Clinical photography of CPERS requires special consideration as the validity of consent may be difficult to assess. Photography required for legal or forensic purposes will be conducted by Service police to ensure compliance with any legal evidence requirements. Very rarely, clinical images (including photography) may be required for the medical record but only after written consent has been given by the CPERS. The use of such images for teaching, research, papers, books, journals or presentations is prohibited.

f. Health personnel must not participate in any planned procedure for restraining CPERS unless such a procedure is determined to be in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the individual, their fellow CPERS or of their guardians. Moreover, restraint must not present an undue or disproportionate hazard to the CPERS physical or mental health. Such requirements are likely to occur rarely.

g. Our Armed Forces must provide medical support with impartiality. There shall be no discrimination on grounds of age, disability, race, colour, gender, language, religion or belief, sexual orientation, gender reassignment, marriage/civil partnership, pregnancy, maternity, political or other opinion, national or social origin, property, birth or other status. The medical care provided must be ethical and comply with best practice.

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<sup>160</sup> The process for this is laid out at paragraph 3.12(a) for an inpatient at a medical facility.

### UK Armed Forces medical staff must treat all CPERS with impartiality.

- h. Additionally, the Senior Medical Commander on behalf of the UK Force Commander is accountable for the maintenance of appropriate standards of health and hygiene within CPERS facilities, regardless of size or austerity. Routine responsibility for managing this will normally be delegated to subordinate medical staff, who should always consider involving environmental health personnel in this process.
- i. Medical staff are to remain alert to the potential conflict that may arise through their dual loyalty to support CPERS while supporting the needs of the military organisation. They must be mindful that the well-being of the patient is their prime consideration and all patients are to be treated in accordance with their medical needs.

3

## Section 2 – Status and protection of medical staff

3.6. During an armed conflict, the distinctive emblem of the medical services of an armed forces should always be displayed when in the presence of CPERS. UK military medical staff will display the red cross emblem. Other nations' medical staff may display the red crescent or red crystal emblem. When intact enemy medical facilities are captured, this should be reported through the chain of command. Their incorporation into the medical organisation for the treatment of CPERS should be considered.

3.7. Military medical staff should routinely wear full uniform.<sup>161</sup> Captured military medical staff have protected status under the Geneva Conventions, as detailed below. Where possible, to reduce the burden on UK medical staff, captured military medical staff should be used where appropriate and to the extent feasible. These individuals can contribute to the medical management of CPERS, particularly where there would otherwise be language or cultural difficulties. They are also of value where the captured enemy medical staff have a particular expertise in endemic disease not normally seen in the UK, and helping to manage psychological disorders in CPERS. There are two main categories staff may belong to.<sup>162</sup>

161 See Geneva Conventions for the detailed provisions.

162 Geneva Convention III 1949 (GC III), Articles (Arts) 30, 32 and 33.

- a. **Retained personnel in international armed conflicts.** Captured military medical personnel exclusively engaged in enemy medical and/or dental services are not prisoners of war, but are considered to be retained personnel. They may be retained so that their skills may be used in treating prisoners of war.
- b. **All other medical staff in international armed conflicts.** These consist of military personnel trained and employed as orderlies or stretcher bearers, or who are not members of the medical services but who happen to be suitably qualified; for example, doctors and physicians who are not serving in a medical capacity. Military personnel in this category are treated as prisoners of war but when they are employed in medical duties they have the same rights as retained personnel.

3.8. Captured medical staff who fall into either of the two categories shown above and who are engaged in giving medical assistance to CPERS have the following rights and privileges.<sup>163</sup>

- a. They are to receive, as a minimum, all the rights conferred by the Geneva Conventions.
- b. They are to be afforded the facilities to perform their medical duties in accordance with medical ethics, under the direction and control of UK medical services and within the scope of UK military laws and regulations.
- c. They are to be given the means to treat CPERS, preferably those of their own forces.
- d. They are to be given the opportunity (including the provision of transport) to make regular visits to CPERS employed outside the camp or to CPERS who are in hospital outside the camp.
- e. While they are subject to the internal discipline of the camp, there is no compulsion placed upon them to carry out anything other than medical work.
- f. They have the right to propose prisoners of war for repatriation or accommodation in a neutral country and have an entitlement to

.....  
<sup>163</sup> Geneva Convention I 1949 (GC I), Art 28; GC III, Arts 33 and 113.

attend examinations conducted by mixed medical commissions appointed to examine sick and wounded prisoners of war and make recommendations concerning their repatriation. For further details on mixed medical commissions see Chapter 12, Section 4.

g. If hostilities permit in international armed conflicts, retained personnel have the right to be relieved and repatriated.<sup>164</sup>

h. The senior retained medical officer is responsible to the CPERS holding facility commandant for everything connected with the activities of retained and other medical staff employed on medical duties in the camp. They have the right of direct access to the commandant and must be provided with the necessary facilities for correspondence.

## Section 3 – Minimum standards for provision of medical treatment

3.9. The Detention Authority must ensure that interrogation (as distinct from tactical questioning) does not take place until the CPERS has been medically examined by a medical officer. Medical staff shall also conduct medical inspections or examinations in the following circumstances.<sup>165</sup>

a. All CPERS are to be medically examined as soon as is reasonably practicable and must undergo a medical examination within four hours of capture – unless operational circumstances make such an examination impossible. This examination should be conducted by the most medically qualified individual available and will generally take place at, or close to, the point of capture. The aim of this medical examination is to determine whether any immediate medical care is required and to document any injuries present at the time of capture. An F Med 1026 (medical examination for CPERS), as shown in Annex 3A, should be used. As the medical examination takes place after capture, it does

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164 GC I, Art 28.

165 Where specified, this must be a medical officer, ideally a general practitioner (GP) or a medical officer who has been appropriately trained. In all other cases this may be suitably qualified and appropriately supervised professional medical staff. In some operating environments (for example, the maritime setting or isolated force elements in forward areas of the land environment), there may be no medical officer available. In this event the medical officer may be substituted by the most highly trained medical staff available at that time.

not form part of the decision to detain and medical personnel must not declare a CPERS as fit for detention or questioning. Where immediate medical care is required, the CPERS should be transferred to an appropriate medical treatment facility as soon as possible.

b. CPERS should be examined by a medical officer as soon as reasonably practicable (this is likely to be on transfer to a CPERS facility or on admission to hospital). The aim of this medical examination is to confirm the findings of the initial medical examination at the point of capture, to identify any physical or mental illness, including chronic illness and to determine whether the medical needs of the CPERS can be adequately managed in the detention facility. Where it is determined that the medical needs of the CPERS cannot be adequately managed in the detention facility, transfer to hospital or recommendation for release on medical grounds, where appropriate, should be considered. Where the examining medical officer determines that a CPERS' health needs in detention require special arrangements or infection control measures, these are to be notified in writing to custodial staff immediately, with due respect for medical confidentiality. The examination is to be documented using an F Med 1026.

c. In addition to (and distinct from) the formal screening medical examination described above, the chain of command may require some form of elective screening medical to be conducted and documented further forward than the CPERS holding facility, for example, where transit through the CPERS handling chain is prolonged or where specific concerns regarding CPERS' health exist. The exact nature of such forward screening medicals (namely, who does what, when and where) will be determined between the medical commander and the chain of command, and will be influenced by availability of resources and specific operational circumstances. Any such medical examination may only be conducted with the full consent of the CPERS, as explained in Section 6 of this chapter.

d. When required to determine the fitness of those CPERS eligible for work, these examinations shall have particular regard to the nature of the work that CPERS may be required to do.<sup>166</sup> If any CPERS considers they are incapable of working, they shall be permitted to seek a medical opinion. Medical staff may recommend the exemption of a CPERS from work.

.....  
<sup>166</sup> Only applies to CPERS with prisoners of war status and those internees who volunteer for work. For further details see Annexes 10D and 10E.

- e. In addition to any medical screening as described above, periodic examinations of CPERS shall be conducted by a medical officer. The exact frequency of reviews will be determined by specific circumstances. Where captivity is prolonged, such medical examinations should take place at least once a month and shall include checking and recording each individual's weight.<sup>167</sup> The purpose of this is to monitor the general state of health, nutrition and cleanliness of CPERS and to detect contagious diseases. Screening for endemic diseases, such as tuberculosis, may need to be undertaken. Although models of psychological health do not translate easily across cultures, attempts must be made to assess a CPERS' mental health as part of such examinations. Where possible, consideration should be given to the frequency of medical examinations being increased from monthly to weekly.
- f. Prior to a CPERS' transfer of care from one institution or facility to another, and upon discharge or release.
- g. Every 24 hours for those CPERS who are being kept in medical isolation, segregation or under maximum security restrictions, and for those who are engaged in actions that might affect their health (such as those on hunger strike, refusing medication or deemed at risk of self-harm).<sup>168</sup>
- h. All CPERS who request to be seen. (An example of 'right to see a doctor' sign that would be displayed in a CPERS holding facility can be found at Annex 3B.)
- i. All CPERS who require clinical follow-up.
- j. Any CPERS to whom medical staff are specially directed or about whom they might have clinical concerns. This may include vulnerable groups.<sup>169</sup>
- k. Any CPERS upon the request of holding facility staff.

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 167 GC III, Art 31.

168 This does not apply to individuals who are housed in single cells and who are in regular contact with other CPERS through communal messing or exercise arrangements.

169 Chapter 2, Section 4.

3.10. The following minimum standards of medical treatment must be provided.<sup>170</sup>

- a. All CPERS held by our Armed Forces will require a medical assessment in accordance with paragraph 3.9.
- b. All sick or injured CPERS must be treated impartially and according to medical need and priority without regard to status or national origin. At any point after capture, all CPERS entering the CPERS handling chain will receive medical care based on their immediate clinical need.
- c. No CPERS may be subjected to mutilation, to medical or scientific experiments of any kind, or procedures of any kind that lack medical justification.
- d. When there is a change of duty medical carer for CPERS patients, there should be a clear and documented handover routine so that there is, as far as practically possible, seamless care in accordance with good health care governance principles.
- e. CPERS are entitled to the same medical attention as that afforded to our Armed Forces personnel in the same situation and delivered by the most appropriate medically trained personnel available in that locality.
- f. Our Armed Forces should not prevent CPERS from presenting themselves to medical staff for examination. Instructions must be clearly visible detailing how medical staff can be contacted in an emergency.
- g. Medical staff should carry out the following.
  - (1) Treat, evacuate and return CPERS to the normal CPERS facilities using the same clinical criteria that are applied to our Armed Forces.
  - (2) Hold a daily sick parade at each CPERS holding facility.

Details of the timings of sick parades and of the medical facilities available are to be clearly displayed and briefed to CPERS using a language they understand.

.....  
<sup>170</sup> United Nations, *Standard Minimum Rules for the Treatment of Prisoners*, 17 December 2015.

(3) Transfer CPERS requiring specialist treatment to specialised institutions, military or civilian hospitals most appropriate to their needs. Where hospital facilities are provided within an institution, their equipment, furnishings and pharmaceutical supplies shall be adequate for the medical care and treatment of sick CPERS, and there shall be a staff of suitable trained personnel. Any transfers to coalition partners medical facilities (or host nation or non-governmental organisation facilities) should have been considered in advance and must be made having taken medical, legal and policy advice and with appropriate safeguards in place recorded in a memorandum of understanding or other written agreement.

(4) Provide CPERS with medical care and the appliances necessary to maintain in good health, free of charge, for example:

- o pharmaceutical preparations;
- o dressings;
- o immunisations;
- o spectacles;
- o dentures; and
- o other prostheses.

The medical officer at the CPERS holding facility is to establish a quality assured system for issuing medication. Prior reachback should be sought from the medical chain of command to assist in devising an appropriate system. This could amount to the medical officer dispensing each dose of medication. However, if CPERS are self-medicating, instructions need to be in a language they can understand.

h. The services of at least one fully qualified general practitioner, who will have primary care experience of mental health problems, shall be available to every CPERS holding facility. Vulnerable CPERS, as defined at Chapter 2, Section 4, who require medical attention, are to be released into the care of the medical services to assess and treat as necessary. CPERS who, owing to their physical or mental condition are unable to state their identity shall be handed over to the medical services in the first instance. The identity of such CPERS shall be established by all reasonable means. The Detention Authority will then consider whether or not the CPERS should be released or their detention continued.

- i. Oral health inspections (properly consented) are to be carried out at appropriate intervals as determined by dental staff.

**The services of a qualified dental officer shall be available to every CPERS holding facility.**

- j. The medical authorities shall, upon request, issue any CPERS who has undergone treatment, a report indicating the nature of their illness or injury and the duration and kind of treatment received. A duplicate of this report shall be held with the CPERS' medical record.

- k. If it is suspected that a CPERS has an infectious disease, consent must be sought prior to disclosure of this in the wider interests of protecting others, such as military personnel, visitors, interpreters and other CPERS. If consent is not granted, urgent consideration must be given to disclosure if it is necessary to protect others.

- l. New injuries found while being held by our Armed Forces must be carefully documented and brought to the attention of the operational and medical chain of command, Service police and legal adviser, so that an investigation can be started immediately. Medical staff must carry out checks of other CPERS to ensure that this is not indicative of a wider problem.

**New injuries found on CPERS while being held by UK Armed Forces must be carefully recorded and reported.**

- m. If a CPERS brings in any drugs or medicine or declares that they have been receiving any continuing therapy, the medical officer shall consider how best, if appropriate, to continue the course of treatment.

- n. Medical staff providing treatment to CPERS must have an interpreter where necessary (inevitably provided from within the CPERS holding facility resources so as to limit CPERS exposure to other interpreters, who may not understand the procedures and risks), without which it will be difficult to conduct a medical consultation on a patient. Wherever practicable, interpreters should be of the same gender as the CPERS. Unless there appears to be a medical emergency, or it will unduly delay the completion of the formal medical

screening examination on admission to the CPERS holding facility, medical staff should postpone undertaking a clinical consultation until an interpreter is available. Should a CPERS refuse to allow the interpreter to be present, efforts should be made to reassure the patient and address any fears that they might have (for instance, by using a screen or handheld radios, to avoid face-to-face contact between the interpreter and CPERS). However, if they remain adamant that they do not wish to have an interpreter present, the consultation should continue with an appropriate note being made in the medical documents.

o. Consideration must be given to cultural issues, such as the preference in some societies of only using female health care personnel for female patients and male health care personnel for male patients. However, it is recognised that it may not be possible to comply with such preferences in all circumstances.

p. The Theatre Medical Director has a specific responsibility to undertake regular visits to any national CPERS holding facility within their area of responsibility for the purposes of medical assurance.

q. The practice of remotely prescribing treatment without actual examination of the patient is highly undesirable and should not occur unless there are compelling operational reasons that make this approach the only way in which to administer care to the CPERS. If remote prescribing does occur, then the reason is to be clearly recorded in the CPERS' medical records and arrangements to visit the CPERS made at the earliest opportunity.

r. In all cases of death in custody, the case is to be immediately referred to the Service police for investigation, legal adviser, chain of command and reported to the Theatre Medical Director. Detailed clinical records should be made that will enable a subsequent written report to be prepared and, where necessary, establish identity. The nature of any post-mortem medical examination required will depend upon the circumstances of the death and will, whenever possible, be sensitive to local customs and religious practices. A general practitioner would not normally be expected to have the expertise to carry out such a medical examination and advice should be sought from a senior medical commander to how this medical examination is to be achieved. The burial or cremation of a CPERS cannot take place until the Service police give authority and in normal circumstances the body will be

released to the family usually following engagement with the appropriate host nation authorities,<sup>171</sup> possibly through the International Committee of the Red Cross (ICRC), for burial in accordance with local custom. The ICRC may be willing to assist in this regard. The forensic component of any investigation following the death of a CPERS will normally be led by Service police.

3.11. **Continuation of medical care out of country.** There may be occasions when the clinical care of a CPERS cannot be supported locally and it would be in their best medical interests to be evacuated to the UK or to a third-party nation for continuation of care. Under these circumstances, clinical staffs are to advise the chain of command at the earliest opportunity to enable the necessary consultation with key UK government departments and for approval of any evacuation to be given. Notwithstanding the clinical imperatives, it may be that clearance for evacuation is not forthcoming. Under these circumstances, a note to the effect that clearance to evacuate has not been given is to be recorded in the CPERS' documents and the best care is to be continued within the capabilities and constraints of the deployed medical clinical facilities within the operational area. Where clearance to evacuate is obtained, the CPERS must be informed and their consent obtained where they are an adult with mental capacity. For others, urgent legal advice must be sought. The host nation's laws may be relevant.

## Section 4 – Special categories of captured persons

3.12. **Wounded and sick captured persons.** Wounded and sick CPERS may be questioned, but not if it would adversely affect their health or treatment. Procedures will vary depending upon whether the CPERS is a patient within a medical treatment facility or not.

a. **Inpatients within a medical facility of the medical services.**

Questioning will not normally take place within a medical treatment facility, or when a patient is receiving treatment for an acute condition. Such actions could affect the protected status of the medical facility rendering it liable to legitimate attack. Accordingly, the theatre commander must be engaged and legal and policy advice must be sought at the earliest opportunity. A responsible officer from the

.....  
171 See Chapter 13, Section 4.

Detention Authority may seek permission from the commanding officer of the relevant medical treatment facility to question a CPERS. The commanding officer, in consultation with the clinician directly responsible for the CPERS' treatment, should make an assessment as to whether questioning will adversely affect their patient's treatment, physical or mental health.<sup>172</sup> This assessment and any time limitations must be recorded in the clinical record. After seeking legal advice, only the UK formation commander, to whom the medical unit commanding officer is responsible, can order that commanding officer to allow questioning against medical opinion. In such circumstances the order must be in writing and the facts reported up through the operational chain of command, as well as the medical functional chain of command.

b. **Outpatients.** When a CPERS is being treated outside the hospital setting, medical staff must ensure that appropriate measures are in place to maintain continuity of any care during the period of captivity by our Armed Forces. This includes ensuring that time is available for any routine follow-up examinations to be made and that medications can be administered in accordance with the required treatment regime to ensure continuity of care. It is the responsibility of the CPERS holding facility commandant to ensure that medical care is not compromised.

c. **Recommendations of grounds for medical discharge from captivity.** If, in providing clinical care to a CPERS, the clinician in charge becomes concerned that the health of a CPERS is being adversely affected by their captivity, they can make recommendations to the chain of command and the Detention Review Authority that the individual be released on medical grounds. The final decision will rest with sufficiently senior staff within the operational chain of command who are able to fully analyse the implications of such a release. However, should the advice to release a CPERS on medical grounds not be taken, a record must be made in their medical documentation showing the medical advice, to whom it was given, the decision made and by whom it was made. Additionally, the Theatre Medical Director must be informed.

3.13. **Juveniles and children.** Juveniles and children are subject to different management.<sup>173</sup> It should be noted that the detaining authority is required

172 JSP 383, *The Joint Service Manual of the Law of Armed Conflict*, paragraph 8.34.1 states 'wounded and sick prisoners of war may be interrogated, but not if it would seriously endanger their health (GC III, Art 13) so medical advice should be taken in case of doubt'.

173 See Chapter 2, Section 4.

to establish a detainee's age so that they are provided with the correct treatment in accordance with the UK's obligations under international law. All Defence Medical Services staff are to ensure they act within their professional obligations: the UK General Medical Council gives additional guidance for the treatment of juveniles and children.<sup>174</sup> Lack of documentation, misleading information and cultural and ethnic differences may make it difficult to determine age and, while not primarily a medical responsibility, medical staff may be called upon to help determine the age of a CPERS. In practice, even with medical evidence, age determination is extremely difficult to do with certainty and no single approach can be relied upon.<sup>175</sup> While elaborate forensic techniques exist to help determine age, these are impractical and ethically unacceptable in the CPERS setting. One technique that may be used is assessing dental age based on detailed assessment of dental development. However, even when conducted by dental consultants the margin of error in determining age through this process is approximately plus or minus two years for 95% of the population.<sup>176</sup> When assessing age of CPERS, medical authorities are acting in a purely advisory capacity. The ultimate decision on determining age is to be taken by the Detention Authority who is always to be made aware of the limitations of any medical and dental assessment advice. When medical authorities are asked to determine age they are to confine themselves to the following procedures.

- a. Assessing physical appearance and general demeanour. This should be conducted by a registered and licensed medical practitioner (doctor) with training and experience in treating children.
- b. Inspecting dentition to determine the emergence of third molar (M3) wisdom teeth. A person with one or more fully emerged M3 teeth is more likely to be 18 years old, but this finding is not definitive and should be used as part of an overall holistic assessment.<sup>177</sup> Conversely, however, the absence of M3 dentition is not a reliable indicator of juvenile status. This examination is only to be done by a qualified dental practitioner.<sup>178</sup>

.....  
174 GMC, *0-18 years: guidance for all doctors*, 15 October 2007 (updated 8 April 2018).

175 Royal College of Paediatrics and Child Health, '[Refugee and unaccompanied asylum seeking children and young people - guidance for paediatricians guidance](#)'.

176 *The Health of Refugee Children: Guidelines for Paediatricians*. Royal College of Paediatrics and Child Health, November 1999.

177 Defence Dental Services literature review report, 2 February 2011.

178 Not all dentists opine that such an inspection complies with their professional ethics. This is subject to ongoing consultation.

c. Conducting dental examination only after obtaining informed written consent from the CPERS. Legal advice should be sought in the case of juveniles and children or persons who may lack mental capacity. Any consent must also agree to the subsequent release of information to the Detention Authority.

d. Not using x-ray examination (including dental) in determining age under any circumstances.

e. Explaining to the CPERS that they are not acting as care givers.

3.14. **Women and girls.** Appropriate chaperones should be made available for opposite gender examinations. In the case of pregnant CPERS there should be special accommodation for pre-natal and post-natal care and treatment. Arrangements should be made wherever practicable for children to be born in a hospital outside the CPERS holding facility. If a child is born in a CPERS holding facility, this fact shall not be mentioned on the birth certificate. The national procedures of the nation of which the CPERS is a national should be considered.

## Section 5 – Hygiene standards<sup>179</sup>

3.15. The UK has a responsibility to ensure that all necessary measures are taken to prevent epidemics and to ensure that CPERS facilities are maintained in a clean, sanitary and healthy condition.<sup>180</sup> Therefore, medical authorities (including environmental health) must be involved at an early stage in the planning of CPERS facilities.

3.16. CPERS may pose a risk to each other and those guarding them, due to poor hygiene practices or infectious disease. In addition to primary care support for CPERS, the medical authorities will need to consider preventive medicine issues when planning a CPERS facility. A medical risk assessment must be carried out with a view to recommending any special measures (over and above those already included in the theatre medical plan) that may be required to protect individuals (both CPERS and guarding force) against any increased health threats; this may include a programme of inoculation or

179 United Nations, *Standard Minimum Rules for the Treatment of Prisoners*, 17 December 2015, and JSP 383, *Joint Service Manual of the Law of Armed Forces*.

180 GC IV, Arts 85 and 92.

de-infestation of CPERS on arrival at a CPERS holding facility. CPERS found to be suffering from infectious diseases are to be informed and isolated as appropriate from other CPERS based on medical advice. Consideration is to be given to informing other CPERS that there is a medical reason for isolation. Allowing communication between the isolated CPERS and other CPERS must be considered to keep levels of tension as low as possible.

**Medical staff must ensure that the highest standards of health and hygiene are maintained in all CPERS facilities.**

3

3.17. Medical staff must conduct a continuous programme of inspections aimed at promoting and maintaining the highest standards of hygiene within a CPERS holding facility. The medical authorities must audit this activity and should direct environmental health staff to assist medical officers in this task. The results of these inspections must be reported to the commandant of the CPERS holding facility and through the medical chain of command. Inspections should include identifying the:

- quantity, quality, variety, preparation and service of food;
- quantity, quality, preparation and service of potable water to ensure sufficient drinking water supply (as well as the sufficiency and suitability of water to maintain hygiene);
- hygiene and cleanliness of the institution and the CPERS;
- sanitation, heating, lighting, shade and ventilation of the institution;
- suitability/cleanliness of the CPERS' clothing and bedding; and
- adherence to guidelines on access to the open air and physical exercise.

3.18. The commandant should take into consideration the reports and advice that the medical officer submits and, when they concur with the recommendations made, take steps to implement them. If the commandant does not concur with the medical professionals, they should immediately submit their own report and the advice of the medical officer or other health professionals to the in-theatre headquarters, Provost Marshal (Army) and legal adviser. The medical officer or other health professionals shall report to the CPERS holding facility commandant and to the medical authorities whenever they consider that a CPERS' physical or mental health has been, or will be, injuriously affected by being held in the CPERS holding facility.

## Section 6 – Consent of captured persons

3.19. The normal rules and standards of consent, record keeping, use of chaperones and medical confidentiality apply in respect of the medical management of all CPERS.<sup>181</sup> Where written consent is required,<sup>182</sup> but the CPERS is unable to write, some other recognised means of consent, such as a thumbprint and witnessing/recording of the process, with the assistance of an interpreter if required, may be used.



If a CPERS is unable to write, they can use other recognised means of consent, for example, a thumbprint

3.20. Any medical information given by a CPERS to a health care professional is given on the understanding of a normal medical duty of confidence.<sup>183</sup> Consent should be obtained before releasing this information; the information released should always be relevant and the minimum required. Where there is doubt as to the confidentiality of the information, advice should always be obtained from higher medical authority through the medical chain of command.

3.21. Unsolicited physical medical examinations and inspections (for example, those conducted as part of the routine administrative process and not at the specific request of the CPERS) should only be conducted with the informed, written consent of the individual. Consent for physical examinations and treatment must be recorded in medical records. If consent is withheld, this must be recorded and witnessed and any examination must be restricted to external visual observations. In addition, it should be noted that CPERS may also refuse care, such as insulin or other medication or even feeding. If this occurs then it will be necessary to make an urgent assessment of the individual's mental capacity and consult the chain of command, medical officer, Military Provost Staff and legal adviser immediately. The General Medical Council provides specific guidance.<sup>184</sup>

181 GMC, *Good Medical Practice*, 25 March 2013 (updated 29 April 2019) and GMC, *Confidentiality: good practice in handling patient information*, 25 April 2017 (updated 25 May 2018).

182 Legal advice must be sought concerning minors, juveniles and other vulnerable persons as they may not have the legal capacity to consent.

183 More detail is found in AP I, Article 16(3).

184 GMC, *Consent: patients and doctors making decisions together*, Part 3, 2 June 2008.

3.22. Standard UK consent forms will need to be modified to suit the cultural and linguistic needs of the CPERS. Permanent Joint Headquarters (PJHQ) should issue operation-specific instructions directing the format such consent forms should take. Informed consent for photography should always be obtained in writing.

3.23. Information, such as injuries, distinguishing marks, immunisation history, blood group and allergies, will be regarded as confidential if obtained through a medical examination and consultation. If it is in the interests of the CPERS to divulge this information then they should be encouraged to do so. For example, an immunisation history will help ensure necessary immunisation cover as required and a declaration of allergy status would be beneficial to avoid exposure to allergens whilst a CPERS is held in captivity. Records of the CPERS' gender, age, height, weight, eyes, skin and hair description should be undertaken by non-medical personnel as these are confidential if they are noted within the context of a medical consultation. In cases of doubt concerning the release of medical information, the supervising medical officer or the medical chain of command is to be consulted.<sup>185</sup>

## Section 7 – Qualifications and training of medical staff

3.24. **Qualifications.** A medical officer in charge of providing medical support to CPERS within a CPERS holding facility will normally have completed general practice training. For tasks specified in this document as requiring a medical officer, a general duties medical officer may be used provided they are under the immediate supervision of a named general practitioner. In this context, the named supervisor must be resident in the same location. In the immediate aftermath of capture, but before transfer and formal induction into any CPERS holding facility, an individual will be treated according to clinical need. In such cases medical assistance will be provided by the most appropriate clinical staff available at that location. At point of capture or in remote locations this may include a team medic, first aider, medical assistant or combat medical technician.

3.25. **Supervision.** The medical management of CPERS is very different to the normal professional experiences of Defence Medical Services personnel.

.....  
<sup>185</sup> GMC, *Confidentiality: good practice in handling patient information*, 25 April 2017 (updated 25 May 2018).

It is imperative that medical personnel are fully supported in their work with CPERS and that they do not feel professionally isolated; there should be clearly defined channels enabling medical staff to seek advice and support from those higher in the command chain.

3.26. **Training.** Training in the legal, ethical, clinical and managerial aspects of providing medical support to CPERS is to be delivered during Phase 2 training for all clinical cadres and as part of any operational pre-deployment training. Additionally, appropriate refresher training may be delivered periodically as part of any through-life career course. The exact nature of this training will vary according to the needs of the different specialties and their specific operational roles. This training will be in addition to any Law of Armed Conflict training detailed in Chapter 5. The medical commander should ensure that Defence Medical Services personnel who may become involved with CPERS understand their roles and responsibilities and, where possible, direct refresher training to be conducted. Medical staff deploying in a CPERS role should attend the 'Ethical issues for medical personnel, CPERS awareness' course.<sup>186</sup>

3.27. **Raising concerns.** The need for medical staff to perform their duty and demonstrate moral courage cannot be over emphasised, particularly if they become aware of any physical or psychological mistreatment of CPERS or have concerns about the conditions in which CPERS are being held. Medical staff should be reminded that they will always be supported by the chains of command if they have acted in a professional manner to make their legitimate concerns known.<sup>187</sup>

## Section 8 – Clinical records and reporting

3.28. The prime purpose of medical records is to facilitate patient care. A secondary purpose is to provide a record for medico-legal purposes. Clinical information should be recorded on the most appropriate medium (for example, F Med 826 Field Record, F Med 5 or approved electronic medical information systems) then stored and disposed of appropriately.<sup>188</sup>

186 Training for ethical issues for medical personnel, CPERS awareness, 2013DIN 07-160.

187 JSP 950, 1-2-13, *Raising Concerns, including whistleblowing, by Defence Medical Services Personnel*.

188 JSP 950, 1-2-11, *The Defence Health Record*.

A comprehensive contemporaneous record of any medical interaction with CPERS is to be maintained by the attending medical staff.

3.29. The *Medical Examination for CPERS Clinical Record* F Med 1026, as shown at Annex 3A, is to be completed by a medical officer for every CPERS on the first occasion that they are admitted to a CPERS holding facility. The F Med 1026 is composed of two parts.

a. **Part 1 – Medical examination of CPERS.** Part 1 carries an OFFICIAL – PROTECT SENSITIVE<sup>189</sup> caveat and is retained in the medical notes. It states the purposes of the medical examination and records consent.

b. **Part 2 – CPERS medical recommendation card.** Part 2 is used to communicate any specific medical care and medical safety instructions that the detaining authority is to comply with. If the medical condition of the CPERS changes, the information in Part 2 may need to be updated. The specific format of F Med 1026 does not negate the requirement for comprehensive medical records to be held elsewhere within the medical system for additional information as required.

3.30. Comprehensive medical documentation for all cases of CPERS medical examinations, clinical management paths and treatment programmes is essential. Good record keeping complies with optimum clinical governance for the benefit of the patient and provides evidence when there is a dispute over health care issues between the examining medical officer and the CPERS.

3.31. Medical staff are to ensure that, at all stages, medical records are treated as confidential.<sup>190</sup> They need to exercise continuous vigilance when completing or supplying information for non-medical CPERS documentation, such as the CPERS record shown at Annex A, Section 2. In any areas of doubt, advice should be requested from the supervising senior Defence Medical Services medical officer.

.....  
189 Whilst we acknowledge that OFFICIAL – PROTECT SENSITIVE is not an official government classification, it is currently used on the F Med 1026 form.

190 GMC, *Confidentiality: good practice in handling patient information*, 25 April 2017 (updated 25 May 2018).

3.32. Translations of the F Med 1026 into a local language must be accurate. This should be addressed by PJHQ medical staff as part of any operational-specific captivity standard operating instruction. Local variations (including translations) of medical forms are to be approved by PJHQ prior to use.

3.33. In addition to the above guidance, medical records are to be managed as follows.

a. When a CPERS is transferred to another health care facility, a copy of any health care records should accompany them, with originals being retained in the CPERS holding facility medical centre until transferred to the Central Health Records Library for archiving.<sup>191</sup>

b. When a CPERS is transferred from a medical facility back to the CPERS holding facility, a copy of any inpatient notes is to be sent to the CPERS holding facility medical centre. The principles of medical confidentiality are to be adhered to at all times. The original hospital notes should be retained at the role 2/3 facility for as long as that facility retains responsibility for the medical care of the CPERS after which the originals are to be returned to the Central Health Records Library for archiving.

c. Upon release, CPERS will be offered a summary of their medical records for continuity of care. It should be recorded if the CPERS refuses their medical documentation. Due care should be taken to ensure that the medical summary does not contain information that would compromise the personal security of individual medical staff.

d. When a CPERS has incurred illness or injury caused by work in which they are employed, the Detention Authority is to provide them with a certificate stating the nature of the injury, how it was sustained and the treatment given for it.<sup>192</sup> The certificate is to be signed by the CPERS holding facility commandant and the record of treatment authenticated by a medical officer. One copy of the certificate is to be given to the CPERS, one copy retained within the CPERS medical documents, and one copy is to be forwarded to the Prisoners of War Information Bureau after obtaining appropriate consent. It should be recorded if the CPERS refuses to consent or accept a copy of the

191 In accordance with JSP 950, Volume 1, Part 1, Leaflet 1-2-11 (V2.0), April 2016.

192 GC III, Arts 30 and 54.

certificate. The CPERS is to be advised that any claim for disability is to be pursued through the power in whose forces they were serving at the time of capture.

3.34. A CPERS casualty report (CASREP) for each nationality of CPERS is to be completed daily by all medical facilities having a CPERS registration unit.<sup>193</sup> The CPERS CASREP is used to inform the Prisoners of War Information Bureau<sup>194</sup> of the numbers of CPERS who are undergoing medical treatment and who are held in medical facilities in accordance with Geneva Convention requirements.<sup>195</sup> A copy of the CASREP is at Annex 3C.

.....  
193 In practical terms, this will include all dressing stations, field hospitals, hospital ships and civilian medical facilities.

194 See Chapter 4, Section 5 for further details of the Prisoners of War Information Bureau.

195 GC III, Art 122; GC IV, Art 136.

Annex 3A

# Medical examination for captured persons

**OFFICIAL – PROTECT SENSITIVE (When complete)**

**F Med 1026  
Revised Jul 11**

**PART 1 - MEDICAL EXAMINATION FOR CPERS**

3A

<b>Full Name</b>		<b>Known As:</b>	
<b>Last Name or Family Name</b>		<b>Identification No:</b>	
<b>DOB/Age</b>		<b>Place of Examination</b>	
<b>Date:</b>		<b>Operation:</b>	
<b>Time:</b>		<b>Target Site No:</b>	

**Purpose of the Examination:**

- To determine your immediate physical and mental health care needs.
- To determine if you are suffering from any infectious disease.
- To document whether you are injured.
- To inform the detaining authority of any medical care or supervision you may require.
- To make a medical plan if required.
- To ensure continuity of medical care throughout your captivity.

**Consent:**

- I am aware of the purpose of this examination.
- I understand that medical information is confidential but the detaining authority may be given instructions with regards to my care.
- I understand that I have the right to refuse to participate in this medical examination.
- If I refuse to undertake this medical examination, I will continue to be entitled to the same level of medical care as any other CPERS.

**I do / do not\* consent to undergoing a medical examination for the purposes described above.**

Witness Signature (interpreter):

CPERS's Signature:

Name (Print):

Date:

*\*Delete as appropriate*

**OFFICIAL – PROTECT SENSITIVE (When complete)**

<b>CPERS Name:</b>		<b>Identification No:</b>	
<b>Temperature °C</b>	<b>Pulse</b>	<b>Blood Pressure</b>	<b>Urinalysis</b>
			<b>Weight Kg</b>

**History**

3A

<b>PMH</b>			
<b>Allergies</b>		<b>Current Medication</b>	
<b>Immunisation History</b>			
<b>Current State of Health</b>			

<b>CPERS</b>		<b>Identification</b>	
--------------	--	-----------------------	--

**OFFICIAL – PROTECT SENSITIVE (When complete)**

<b>Name:</b>		<b>No:</b>	
--------------	--	------------	--

**Examination**

*Include a record of any injuries or distinguishing marks*

3A

<b>Health Requirements Identified</b>			
<b>Medical Treatment Plan (Including any Medical Advice and Special Dietary Requirements):</b>			
<b>Medical Completed by:</b>		<b>Signature:</b>	
<b>Service No:</b>		<b>Rank:</b>	
<b>Appointment:</b>		<b>Date:</b>	<b>Time:</b>
<b>CPERS Name:</b>		<b>Identification No:</b>	
<b>CPERS Name:</b>		<b>Identification No:</b>	
<b>CONTINUATION SHEET</b>			

**OFFICIAL – PROTECT SENSITIVE (When complete)**

DATE	NOTES	SIGN

3A

**OFFICIAL – PROTECT SENSITIVE (When complete)**

**PART 2 - CPERS MEDICAL RECOMMENDATION CARD**

**Not to be completed if CPERS requires hospital in-patient care**  
**Caution must be taken in consideration of release of Confidential Medical Information**  
Disposal of Part 2: CPERS Medical Recommendation Card: Copy 1: Patient’s Medical Notes  
Copy 2: Guard Force

3A

<b>Full Name</b>			
<b>Known As</b>		<b>Last/Family Name</b>	
<b>Identification No.</b>		<b>DOB/Age</b>	
<b>Location</b>			
<b>Next Appointments</b>		<b>Date, Time &amp; Location</b>	
		<b>Date, Time &amp; Location</b>	
		<b>Date, Time &amp; Location</b>	
<b>Date</b>	<b>Specific Medical Treatment, Caution Advice And Dietary Recommendations</b>		<b>Sign</b>
To include frequency of drug treatment to be dispensed by the medical centre (drug name(s) not required).			

**OFFICIAL – PROTECT SENSITIVE (When complete)**

<b>CPERS Name:</b>		<b>Identification No:</b>	
<b>Date</b>	<b>Specific Treatment, Advice &amp; Dietary Recommendations</b>	<b>Sign</b>	
To include frequency of drug treatment to be dispensed by the medical centre (drug name(s) not required).			

3A

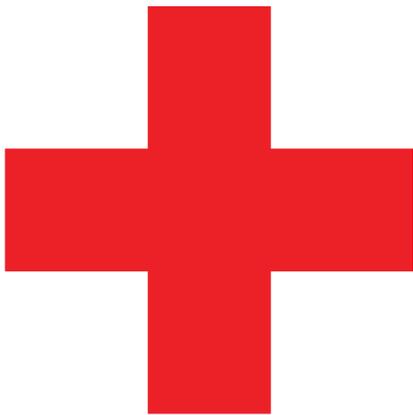
## Annex 3B

# Example of a 'right to see a doctor' sign

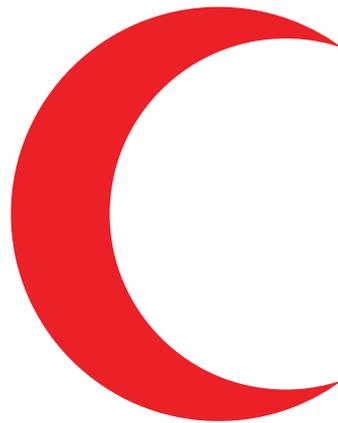
3B.1. All signs must be translated into the necessary languages for all captured persons to understand.

3B

It is your right to see a doctor



Red cross emblem



Red crescent emblem

**Emblems worn by medical officers**

**Speak to a member of staff for help**

Notes

3B

## Annex 3C

# The captured persons casualty report

3C.1. The captured persons (CPERS) casualty report (CASREP) fulfils the function of informing the Prisoners of War Information Bureau of the numbers of CPERS who are undergoing medical treatment and who are held in medical facilities. This meets the UK's obligations under the Geneva Conventions.<sup>196</sup>

3C.2. A CPERS CASREP for each nationality of CPERS is to be completed daily by all medical facilities having a CPERS registration unit.<sup>197</sup> J1 staff at Joint Task Force Headquarters are to consolidate the figures into a theatre CPERS CASREP, which is to be sent to the Prisoners of War Information Bureau.

3C.3. In an international armed conflict, where different categories of CPERS are held, the form must include details of the numbers of individuals in each category. In other situations, total numbers are sufficient.

**There is a legal obligation to complete and submit the CPERS CASREP for prisoners of war and internees in an international armed conflict.**

.....  
196 Geneva Convention III 1949 (GC III), Article 122; Geneva Convention IV 1949 (GC IV), Article 136.

197 In practical terms, this will include all dressing stations, field hospitals, hospital ships and general hospitals.

## Captured persons casualty report

CPERS report for..... (UNIT) as at ..... (DTG)							
Ser.	Detail	Prisoner of war		Internee		Detainee	
		Male/ Female	Civilian/Military	Male	Female	Male	Female
1	Totals from last CPERS CASREP						
2	CPERS TOS since last CASREP						
3	CPERS evacuated since last CASREP						
4	CPERS died since last CASREP						
5	Number of CPERS casualties on strength at DTG of this CASREP						
6	ISN of CPERS placed on VSI/ SI lists since last CASREP						
7	ISN of CPERS removed from SI/ VSI lists since last CASREP						
8	ISN of CPERS who have died since last CASREP						

### Legend

CASREP	casualty report
CPERS	captured persons
DTG	date-time group
ISN	internment serial number
SI	seriously ill
TOS	taken on strength
VSI	very seriously ill

---

Notes

3C



# Chapter 4

Chapter 4 sets out both individual and command responsibility for our UK Armed Forces during CPERS activities and describes the international and domestic law that relate to CPERS handling. It then sets out the responsibilities of the staff and the governance arrangements that provide oversight and surety of the CPERS handling process.

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“

All members of our Armed Forces are, to the utmost of their ability and authority, to prevent violations and promptly report any violations they suspect or become aware of.

”

## Chapter 4

# Responsibilities and governance

## Section 1 – Criminal responsibility

4.1. Under Section 42 of the Armed Forces Act 2006, it is an offence for a member of our Armed Forces, or a civilian subject to Service discipline, to carry out an act which is punishable under the law of England and Wales wherever it may occur. Any criminal offence so committed will be liable to trial by Court Martial but may also be liable to trial in the UK civilian courts under domestic law even when, in the case of extraterritorial criminal offences, they are committed overseas. Additionally, military personnel subject to Service law, and civilians subject to Service discipline, may be liable for the commission of disciplinary offences, for example, contravention of standing orders. Ordinarily contractors, sub-contractors and locally employed civilians will be subject to host nation criminal law (as will members of our Armed Forces in the absence of an agreement providing the UK with exclusive jurisdiction) and any criminal acts are likely to be in breach of the express or implied contractual terms.

4.2. Parties to a conflict have an obligation under international law to investigate their own nationals or those within their jurisdiction, whether members of the armed forces or civilians, who are suspected of committing war crimes and to prosecute them if there is sufficient evidence and it is in the public interest to do so. International law also provides that belligerents have the right to charge, prosecute and sentence enemy armed forces personnel and enemy civilians who fall under their control for such offences.

### Individual responsibility

4.3. All members of our Armed Forces are required to comply with domestic law,<sup>198</sup> international law and the Law of Armed Conflict. The fact that a subordinate was ordered to carry out an act or make an omission which was illegal does not, of itself, absolve the subordinate from criminal responsibility as the obligation is to refuse a manifestly unlawful order.

.....  
198 The law of England and Wales.

All members of our Armed Forces, civil servants and contractors will be individually responsible for any crimes they commit themselves or which they order, encourage or assist others to commit.

4.4. An individual shall be criminally responsible and liable for punishment for a crime under Service law, including a war crime if they:

- commit or attempt to commit the crime themselves, either on their own or jointly with others;
- order, solicit, incite or induce a crime which is committed or attempted;
- aid, abet or otherwise assist in the commission or attempt of the crime, including providing the means for its commission/attempted commission; or
- conspire to commit the crime, or intentionally contribute to the commission or attempted commission of the crime by a group of persons acting within a common purpose.<sup>199</sup>

### Collective responsibility and accountability

4.5. All members of our Armed Forces are, to the utmost of their ability and authority, to prevent violations of the law and promptly report any violations they suspect or become aware of. Where our Armed Forces are involved or suspected of involvement, this must be reported immediately to the Service police and the chain of command. Where other UK personnel are involved, or suspected of involvement, actions should be taken to intervene to prevent the commission of a criminal act. Where non-UK personnel are committing offences, for example, mistreating or using violence against captured persons (CPERS), our Armed Forces have the right in law to intervene under the right of self-defence of others or to prevent a crime. Such intervention will depend upon the ability of the individual and the extent of their authority, but may include arguments to dissuade the offender, threatening to report the criminal act, repeating orders and asking the senior individual at the scene to intercede. A person may also use such force as is reasonably necessary in

.....  
<sup>199</sup> Rome Statute of the International Criminal Court, Article 25, paragraph 3 and Armed Forces Act 2006, Sections 43-48.

the circumstances to prevent crime.<sup>200</sup> Note that lethal force may only be used to protect life when necessary, reasonable and as a last resort.

4.6. Where an individual reports an alleged violation by another member of our Armed Forces, the chain of command is to ensure that every effort is made (so far as the law allows) to protect the anonymity and well-being of the reporting individual. Any allegation is to be treated, as far as possible, in confidence. While allegations must be reported through the chain of command and to the Service police, there may be occasions where this is exceptionally difficult. In such cases, the allegations may be reported to another appropriate person, for example, the padre, detention officer, legal adviser or medical officer (including a qualified practitioner) in the first instance.

### Command responsibility<sup>201</sup>

4.7. A commander is to comply at all times with, and require those under their command to comply with, international and domestic law.<sup>202</sup> They are responsible for preventing violations of the law, for taking the necessary disciplinary action if violations occur and reporting cases of alleged criminal wrongdoing to the appropriate authorities. While a commander may delegate some or all of their authority, they cannot delegate responsibility for the conduct of the forces that they command.

**A commander not only has individual responsibility, but is also responsible for the conduct of their subordinates.**

4.8. The fact that a commander did not order, authorise or knowingly acquiesce in a violation of the law by a subordinate will not relieve them of criminal responsibility for its occurrence if it is established that:

- they knew or, owing to the circumstances at the time, should have known that forces under their command were committing or about to commit crimes; and

.....  
200 Criminal Law Act 1967, Section 3.

201 The concept of command responsibility was first enunciated by the military commission that tried Japanese General Yamashita at the end of World War 2. Yamashita was held to have failed to exercise 'effective control' of his troops who had carried out widespread atrocities in the Philippines.

202 See Geneva Convention I 1949 (GC I): Article (Art) 43; See Geneva Convention II 1949 (GC II), Art 50; See Geneva Convention III 1949 (GC III), Art 129; See Geneva Convention IV 1949 (GC IV), Arts 29 and 146 and Additional Protocol I (AP I), Art 91.



Humane treatment – one of the basic principles

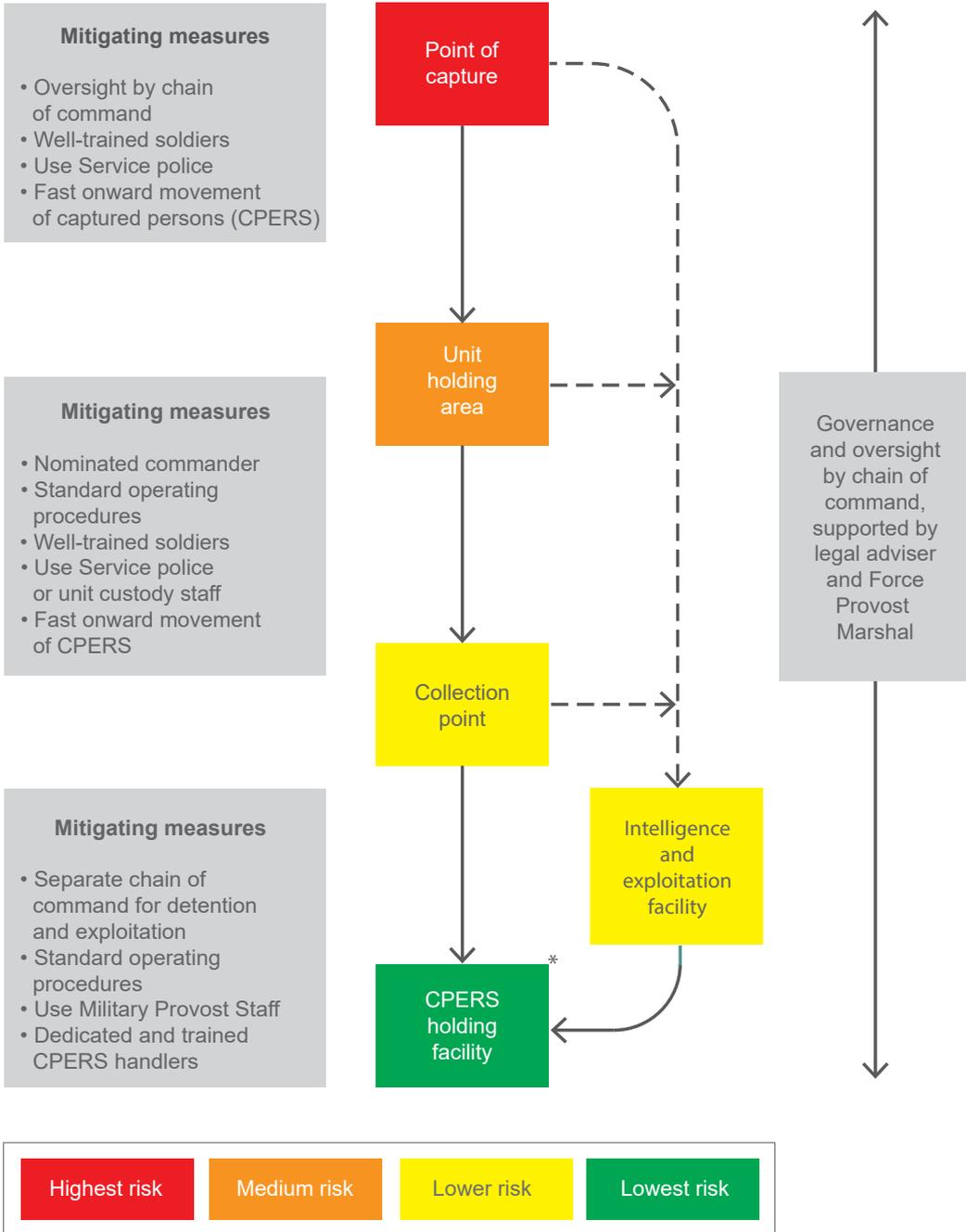
- they failed to take all necessary and reasonable measures within their power to prevent or suppress their commission or to submit the matter to the competent authorities for investigation or prosecution.<sup>203</sup>

4.9. Commanders must ensure that all members of their unit receive appropriate training and education in the principles applicable to dealing with CPERS, emphasising basic principles of humane treatment as well as permitted and prohibited acts. In addition, they must ensure that they appoint a detention officer, unit holding officer and detention senior non-commissioned officer (SNCO).<sup>204</sup> Theatre-specific training will be provided as part of deployment preparations and the theatre legal adviser and Provost Marshal (Army) are also available to supplement training.<sup>205</sup> Details of training are in Chapter 5. A commander's guide to governance, risk and the measures that should be put in place to militate against risk of violations is at Figure 4.1.

.....  
203 International Criminal Court Act 2001, Section 65, which implements the Rome Statute of the International Criminal Court, Article 28; see also AP I, Art 86(2).

204 Note paragraphs 4.27, 4.28 and 4.30.

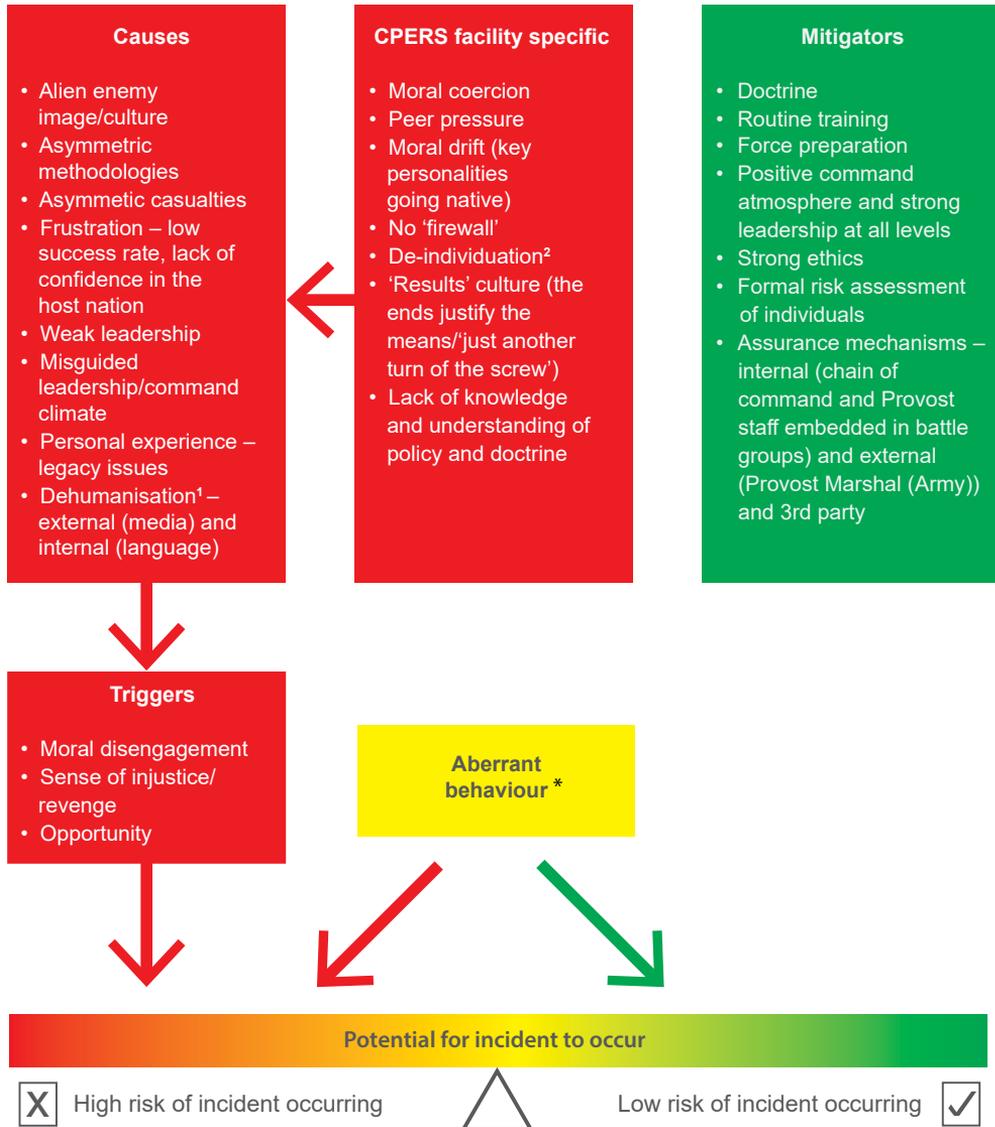
205 All members of our Armed Forces receive training in the Law of Armed Conflict (see Chapter 5). The role and responsibilities of the legal adviser are detailed in Joint Doctrine Publication (JDP) 3-46, *Legal Support to Joint Operations*, 3rd Edition.



\* This is a guide only as a lower risk is dependent on care, time and resources being provided. The length of time held may in fact afford and provide for greater opportunity for violations.

Figure 4.1 – Commander’s guide to risk to CPERS throughout the CPERS handling chain

4.10. Figure 4.2 shows a matrix depicting the factors that have historically been shown to increase the risk of violations. An aide memoire covering integral principles for commanders involved in CPERS handling is at Annex 4A.



\* Aberrant behaviour, independent of causes and mitigations; sometimes people behave badly for unidentifiable reasons.

**Notes:**

1. Dehumanisation takes away the humanity of potential victims, rendering them as animal like.
2. De-individuation makes the perpetrator anonymous, thereby reducing personal accountability, responsibility and self-monitoring, allowing them to act without conscience-inducing limits and inducing group think.

Figure 4.2 – Potential abuse incident risk indicator matrix

4.11. A violation of the Law of Armed Conflict by a member of our Armed Forces is likely to amount to a criminal offence contrary to either the Geneva Conventions Act 1957, the International Criminal Court Act 2001, local/host nation law or the domestic criminal laws applicable in the UK. As soon as they become aware of such an allegation or circumstances, commanding officers must ensure that the Service police are informed and notify the chain of command.<sup>206</sup> The Service police must then deal directly with the Director of Service Prosecutions in relation to the matter.<sup>207</sup> All alleged violations must also be reported immediately through the command chain to theatre headquarters, Permanent Joint Headquarters (PJHQ) and Provost Marshal (Army). In particular, commanders must take legal advice through the command chain about their legal responsibilities.

## Superior orders

4.12. The starting point is that our Armed Forces must obey all lawful orders issued by a superior. Unlawful orders should neither be given nor obeyed.<sup>208</sup> However, superior orders are not a defence available to our Armed Forces in a UK court.<sup>209</sup> An order to commit an obviously criminal act – whether given directly or indirectly – such as the torture or inhuman treatment of a CPERS, is an unlawful order which does not relieve a subordinate of their responsibility. Such an order must be refused. Where an order is ambiguous, a subordinate must seek clarification. Where an order permits such degree of latitude to a subordinate that it is capable of being carried out lawfully or unlawfully, the subordinate should only carry it out lawfully. Particular attention must be paid on multinational operations where the UK will retain responsibility for the actions of its Armed Forces.

# Section 2 – Obligations under international and domestic law

## Offences

4.13. The Geneva Conventions Act 1957 criminalises grave breaches of the four Geneva Conventions of 1949 and of the First Protocol to the Conventions.

206 Armed Forces Act 2006, Section 113(1).

207 Armed Forces Act 2006, Sections 116(2) and 116(4).

208 See Joint Service Publication (JSP) 383, *The Joint Service Manual of the Law of Armed Conflict*, paragraph 16.47.

209 See Lord Lloyd in *R v Clegg* (HL) 1995 All ER, 334 at 344.

The International Criminal Court Act 2001 criminalises genocide, crimes against humanity and war crimes; it divides war crimes into grave breaches and other serious violations of the laws of war.

a. **War crimes.** War crimes are defined in numerous statutes and treaties. Simply put, a war crime is described as any serious violation of the Law of Armed Conflict, but may also include criminal acts such as murder, manslaughter or assault. A war crime can be committed in an international armed conflict or a non-international armed conflict. A typical war crime relevant to this publication is the commission of cruel treatment, mutilation or maltreatment of dead bodies.

b. **Grave breaches.** The term grave breaches encompasses the most serious types of war crimes and these can only be committed in an international armed conflict. Examples of grave breaches, for the purposes of this publication, include:

- o the wilful killing, torture or inhuman treatment of CPERS;
- o compelling a prisoner of war to serve in the forces of a hostile power;
- o unlawful deportation, transfer or confinement of CPERS;
- o taking hostages;
- o denying a fair trial; and
- o wilfully causing great suffering or serious injury to the body or health of CPERS.

4.14. The International Criminal Court Act 2001, Section 65 identifies the responsibilities of commanders and other superiors. In addition, the Act's Elements of Crimes (No. 2) Regulations 2004 defines the following crimes.

a. **Genocide.** Genocide involves the commission of defined acts against a group, committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group.<sup>210</sup>

.....  
210 The defined acts are listed in International Criminal Courts Act 2001 (Elements of Crimes) (No. 2) Regulations 2004 (Section I No. 3239 of 2004).

b. **Crimes against humanity.** Crimes against humanity involve the commission of defined acts when committed as part of a deliberate widespread or systematic attack directed against any civilian population.<sup>211</sup>

c. **Torture.** The offence of torture is committed when the following elements are proved.<sup>212</sup>

(1) The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.

(2) The perpetrator inflicted the pain or suffering for such purposes as, obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.

(3) Such person or persons were protected under one or more of the Geneva Conventions 1949, or were either *hors de combat*<sup>213</sup> (CPERS are by definition *hors de combat*), civilians, or medical or religious personnel taking no active part in the hostilities.

(4) The perpetrator was aware of the factual circumstances that established that protected status.

(5) The conduct took place in the context of, and was associated with, either an international armed conflict or a non-international armed conflict.

(6) The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

d. **Outrages upon personal dignity.** The offence of outrages upon personal dignity is committed when the following elements are proved.

(1) The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons.

211 The defined acts are listed in International Criminal Courts Act 2001 (Elements of Crimes) (No. 2) Regulations 2004 (Section I No. 3239 of 2004).

212 The crime of torture is also defined in the Criminal Justice Act 1988, Section 134.

213 *Hors de combat*, literally meaning 'outside the fight', is a French term used in diplomacy and international law to refer to soldiers who are incapable of performing their military function.

(2) The severity of the humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity.

(3) Such person or persons were either *hors de combat* (CPERS are by definition *hors de combat*) civilians, or medical or religious personnel taking no active part in hostilities.

(4) The perpetrator was aware of the factual circumstances that established this status.

(5) The conduct took place in the context of, and was associated with, either an international armed conflict or a non-international armed conflict.

(6) The perpetrator was aware of the factual circumstances that established the existence of an armed conflict.

e. **Inhuman treatment.** The offence of inhuman treatment is committed when the following elements are proved.

(1) The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.

(2) Such person or persons were protected under one or more of the Geneva Conventions of 1949.

(3) The perpetrator was aware of the factual circumstances that established that protected status.

(4) The conduct took place in the context of, and was associated with, an international armed conflict.

(5) The perpetrator was aware of the factual circumstances that established the existence of an armed conflict.

f. **Wilfully causing great suffering.** The offence of wilfully causing great suffering is committed when the following elements are proved.

(1) The perpetrator caused great physical or mental pain or suffering to, or serious injury to the body or health of, one or more persons.

(2) Such person or persons were protected under one or more of the Geneva Conventions of 1949.

(3) The perpetrator was aware of the factual circumstances that established that protected status.

(4) The conduct took place in the context of, and was associated, with an international armed conflict.

(5) The perpetrator was aware of the factual circumstances that established the existence of an armed conflict.

g. **Cruel treatment.** Cruel treatment differs from the crime of inhuman treatment as it occurs in a non-international armed conflict. The offence of cruel treatment is committed when the following elements are proved.

(1) The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.

(2) Such person or persons were either *hors de combat*, civilians, or medical or religious personnel taking no active part in hostilities.

(3) The perpetrator was aware of the factual circumstances that established this status.

(4) The conduct took place in the context of, and was associated with, a non-international armed conflict.

(5) The perpetrator was aware of the factual circumstances that established the existence of an armed conflict.

## The applicability of human rights law

4.15. Compliance with all international and domestic law is fundamental to our Armed Forces. In some circumstances, regional human rights instruments, including the European Convention on Human Rights, may apply to CPERS during operations. The applicability of the European Convention on Human Rights to CPERS has, and continues to be, subject to scrutiny and ongoing interpretation in the UK courts and the European Court of Human Rights. PJHQ, in consultation with the Ministry of Defence (MOD), will provide

further guidance for operations. The MOD's position is that the International Covenant on Civil and Political Rights and the United Nations (UN) Convention against Torture and Inhuman or Degrading Treatment do not always apply extraterritorially and, therefore, they will apply only by exception to CPERS during operations overseas.

4.16. A violation of human rights law can have grave consequences beyond the victim. Consequences can include strategic implications and impact upon the mission as well as reputational damage to our Armed Forces and the UK, and a reduction in support from the public and our coalition partners. Under the Human Rights Act 1998 the MOD can be sued in the UK civil courts and can be required to pay compensation if found to be liable. Certain violations of human rights law may lead to individual criminal responsibility. At the international level, if the victim of a human rights violation does not get an effective remedy through the UK courts, they can lodge an application with the European Court of Human Rights. This court has power to find that the UK has violated a person's human rights and can order the UK government to pay compensation to the victim. Such violations can also damage our Armed Forces' reputation and perceived legitimacy.

### Judicial reviews

4.17. Recent operations have resulted in a number of judicial reviews, which include allegations that CPERS have been abused or mistreated by our Armed Forces, their allies and the host nation authorities contrary to Article 3 of the European Convention on Human Rights. Although a judicial review is not a criminal trial, there may be evidence resulting from one that may ultimately lead to disciplinary proceedings.

4.18. The outcome of judicial reviews may have direct implications for UK CPERS activities. Any abuse of CPERS, poor planning or procedures, or neglect may give rise to further legal challenges and direction from our courts. Such cases are very costly, both in money and personnel, and can be highly damaging to the reputation of the UK and our Armed Forces. In addition, they give rise to the risk that, either as a result of legal or policy requirements, significant restrictions or a complete prohibition may be placed on our Armed Forces' ability to carry out certain CPERS activities. The effect of such restrictions cannot be overstated. Access to lawyers for CPERS will be granted in certain circumstances. Further guidance will be provided by the MOD.

## Section 3 – Staff responsibilities

### Core responsibilities of key personnel

4.19. All Service personnel who interact with CPERS have a responsibility to both CPERS and their fellow Service personnel to act professionally and in accordance with Service values and standards. If an allegation of abuse or mistreatment is made against Service personnel by CPERS, those Service personnel should not undertake any CPERS-related duties until authorised to do so by their chain of command (this could range from a very short-term suspension to an indefinite one depending on the circumstances). Allegations could be genuine or groundless. The chain of command will need to make an initial assessment of the veracity of the allegation to ensure that appropriate decisions are taken in support of the CPERS, Service personnel and the military operation. Advice must be sought from the Force Provost Marshal and legal adviser.

4.20. The core responsibilities of key personnel involved in the CPERS handling organisation are detailed below. Having a working knowledge/ understanding of, and having access to, Joint Doctrine Publication (JDP) 1-10 is a requirement of all key personnel. It is not intended to be an exhaustive list and the allocation of responsibilities will reflect the demands of the operational situation. The staff appointments and responsibilities listed below are those required to support the Joint Task Force Headquarters (JTFHQ), but they remain subject to additions and alterations at the direction of the Joint Force Commander.<sup>214</sup> It may be necessary to replicate them at lower levels of command.

4.21. **The Joint Force Commander.**<sup>215</sup> The Joint Force Commander is responsible for:

- giving clear direction to their staff for CPERS activities within the overall campaign plan, including any necessary re-integration operations;

.....  
214 For ease and consistency we have used the Joint Force Commander throughout. However, if there is no joint force, this will be the Senior Service Commander.

215 Certain types of operations may require the appointment of a national contingent commander or a senior British military representative, in which case the roles and responsibilities for each in relation to CPERS activities must be clearly understood and articulated.

- designating the CPERS handling organisation commander, who will be the single individual responsible for all aspects of CPERS handling, to include CPERS holding facilities and reporting requirements in the joint operations area;
- ensuring that the CPERS handling organisation commander and CPERS holding facilities comply with relevant laws and regulations;
- liaising with PJHQ to establish the policy for the safe release, transfer and repatriation of CPERS;
- convening and determining the procedure for a Third Geneva Convention Article 5 tribunal<sup>216</sup> (when required in an international armed conflict);
- advising the Detention Review Authority on the operational circumstances relevant to an internee or detainee review; and
- when necessary, appointing CPERS assisting officers for Article 5 tribunals and matters before the Detention Review Authority.

4.22. **The Detention Authority.**<sup>217</sup> The Detention Authority is responsible for making initial detention decisions and supervising all matters of detention except reviews. Detention responsibilities of the national component commander may be delegated to the Detention Authority.<sup>218</sup> The Detention Authority provides in-theatre supervision of all CPERS activities (except review) and is under a continuing duty to ensure that each captivity is justified. The Detention Authority will be mandated to make initial detention decisions as soon as practicable (and only in exceptional circumstances, and for good reason, later than within 48 hours) after capture and is to seek legal and policy advice when deciding whether or not to authorise or continue captivity. The Detention Authority need not be independent of the chain of command but must ensure in exercising their functions that they are satisfied that both a legal basis and proper grounds exist for the detention of each individual. The Detention Authority must be an officer of OF4 rank or above, and must be at least one rank lower than the Detention Review Authority. The functions of the Detention Authority may be carried out by one clearly identified individual,

.....  
216 See Annex 1A.

217 See also paragraphs 1B.5-1B.8 and onwards.

218 For example, in Afghanistan the Detention Authority was the Joint Force Support Commander.

but in the case of large-scale operations those functions may be delegated to other specified individuals acting under the general supervision of a nominated Detention Authority.

4.23. **Detention Review Authority.**<sup>219</sup> The independent Detention Review Authority reviews decisions made by the Detention Authority to intern or detain as soon as practicable after such decision has been made by the Detention Authority. The Detention Review Authority for each operation is nominated as such by the Secretary of State for Defence (or a person acting on their behalf). The Detention Review Authority may be a single individual or a tribunal of up to three persons. Where the Detention Review Authority is made up of more than one person, a chair should be nominated. For operations where many CPERS are expected, more than one Detention Review Authority may be appointed. The Detention Review Authority must be drawn from personnel outside the operational chain of command.<sup>220</sup> The Detention Review Authority should consist of officers<sup>221</sup> of OF5 rank or above or senior civil servants, and must be at least one rank higher than the Detention Authority. The Detention Review Authority may be assisted by other nominated individuals and should be supported by a legal adviser (who should not be the same legal adviser to the Detention Authority). The decision where to locate the Detention Review Authority should be taken in consultation with the Joint Force Commander. For small-scale operations, where few CPERS are expected, it may be possible to conduct detention review proceedings by video link to the UK.

4.24. **The captured persons handling organisation commander.** The appointment of the CPERS handling organisation commander is most likely to arise in a large-scale operation or where there are several CPERS holding facilities. The functions of the CPERS handling commander may be allocated to the Detention Authority. However, whether or not this specific appointment is made, the tasks listed below must still be carried out by, or on behalf of, PJHQ. The CPERS handling organisation commander is responsible for the following:

- exercising tactical command over all assigned and attached forces and CPERS holding facilities within the joint operations area;
- reporting through the Detention Authority to the Joint Task Force Commander on all CPERS matters;

219 See also paragraphs 1B.9-1B.10.

220 Wherever possible, the Detention Review Authority should not be of the same Service or serve in the same top-level budget (TLB) as the Joint Force Commander.

221 Including Reserve officers.

- ensuring the development and implementation of CPERS handling policies for the Joint Task Force Commander in accordance with the applicable law, regulations and policies;
- ensuring that all allegations of CPERS abuse are immediately reported to the Service police through the appropriate chain of command;
- ensuring that all personnel are properly trained on, and apply the rules regarding CPERS handling, the applicable Geneva Conventions provisions and all other applicable laws and policies, to include ensuring that personnel have an effective knowledge of the facility's operating procedures;
- ensuring logistical and medical requirements for the CPERS holding facilities are determined and met;
- coordinating the Joint Task Force Commander's response to any concerns and observations raised by the International Committee of the Red Cross (ICRC) and ensuring that they have been addressed by the chain of command;<sup>222</sup>
- coordinating all visits by representatives of the protecting power or designated agency;<sup>223</sup>
- coordinating with the Joint Task Force Commander's legal adviser for guidance in all matters of planning and execution of operations; and
- overseeing the arrangements for the transferring, releasing, evacuating for medical treatment and repatriating all CPERS, dependent upon their categorisation.<sup>224</sup>

4.25. **Captured persons holding facility commandant.** The CPERS holding facility commandant is the commander responsible for CPERS handling at a facility established by our Armed Forces for that purpose. They are responsible through the chain of command for all CPERS holding facility activities, including humane treatment of CPERS, security, law enforcement, administration, logistics and other operational support requirements. They

222 See Chapter 4, Section 4.

223 See Chapter 4, Section 4.

224 See Chapter 12.

are not responsible for CPERS during exploitation. The CPERS holding facility commandant must be a UK Armed Forces commissioned officer of at least OF3 rank who is not a professional intelligence officer of any Service and who has received appropriate training on detention, and preferably with detention experience. They must be supported by a Military Provost Staff officer or warrant officer, with access to a legal adviser, and they are responsible for the following.

- Implementing the provisions of the Geneva Conventions and Additional Protocols and other applicable international law, as far as they relate to the facility under their command.<sup>225</sup>
- Ensuring that all CPERS staff and personnel are properly trained in CPERS handling, the applicable Geneva Conventions and all other applicable laws and policies, to include ensuring that personnel have an effective knowledge of the facility operating procedures.
- Ensuring that CPERS are dealt with in accordance with the applicable law, regulations and policy.
- Ensuring the safety, health, well-being and training of all personnel operating the facility.
- Ensuring that all allegations of CPERS abuse are immediately reported to the Service police, and PJHQ through the appropriate chain of command.
- Security of the facility.
- Coordinating the arrival or departure of all CPERS.
- Imposing control and discipline over CPERS in accordance with law, regulations and policy.<sup>226</sup>
- Ensuring special provisions are in place for the groups of CPERS detailed in Chapter 2, Section 4.
- Keeping a record of those on duty at the facility, which is to be placed in the unit operational archive.

.....  
225 GC III, Art 39.

226 See Chapter 10, Section 4.

- Planning for family contacts for CPERS, including family visits.
- Liaising with the ICRC as necessary on all matters relating to CPERS, including family (Red Cross messages and visits) and inspections of the CPERS facility.
- In the case of long-term captivity, planning for reintegration operations.
- Ensuring the humane treatment of CPERS at all times and in all circumstances.<sup>227</sup>
- Coordinating with counter-intelligence elements/J2X for the handing over or transfer of CPERS to the intelligence exploitation facility.

4.26. **Commanding officer of the intelligence exploitation facility.** The commanding officer<sup>228</sup> of the intelligence exploitation facility is responsible for the governance of CPERS exploitation. They are only responsible for CPERS handling during periods of personnel exploitation. Their responsibilities include:

- delivering an enduring operational design for exploitation to ensure coherence of effect, which is to be supported by a robust tactical architecture and an enduring, future-proof command and control construct;
- ensuring that intelligence exploitation facilities' activity complements existing (and intended) force exploitation structures, processes and procedures;
- providing subject matter expertise to the Detention Authority and Detention Review Authority;
- providing oversight and first part assurance of all intelligence exploitation activities in the intelligence exploitation facilities;
- ensuring that CPERS are treated in accordance with the law, regulations and policy; and

.....  
227 Noting paragraph 4.26, namely that humane treatment of CPERS continues during tactical questioning and interrogation.

228 A professional intelligence officer.

- ensuring CPERS are humanely treated when undergoing periods of exploitation at the intelligence exploitation facility.

4.27. **Detention officer.** Each combat and combat support unit (or air or maritime equivalent) must have a detention officer, who should be a commissioned officer, within their headquarters.<sup>229</sup> The detention officer is not to be the intelligence officer or a member of the exploitation staff. For small-scale operations, the detention officer and Detention Authority's functions may be carried out by the same individual where necessary. The role should encompass:

- coordinating and managing CPERS;
- acting as a focal point for CPERS matters during mission-specific training;
- ensuring that, as soon as a battlegroup is established, Service-specific military annual training tests (for example, Core Maritime Skills, Military Annual Training Test, Individual Readiness Training) and other training relevant to CPERS (a core military skill) that inculcates the vital messages about the correct handling of CPERS are being carried out;
- assisting the commanding officer during operations by monitoring compliance with timescales, record keeping and other CPERS handling standards;
- acting as a clear point of contact with higher headquarters on CPERS matters and liaising as necessary with the Military Provost Staff;
- ensuring that, with support from a legal adviser, the responsibility for CPERS does not fall in the gap between other battlegroup-level officers, or their maritime equivalent;<sup>230</sup> and
- completing the Unit CPERS Coordinator course.<sup>231</sup>

229 See paragraph 5.9.

230 Text extracted directly from *Baha Mousa* Report.

231 This course trains both the detention officer and the unit holding officer (as mentioned in paragraph 4.28).

4.28. **Unit holding officer.** In addition to a unit detention officer, each unit is to nominate and train a unit holding officer (for the maritime environment this function will ordinarily be conducted by embarked Royal Navy Police). The unit holding officer is the officer responsible for CPERS handling at a unit holding area. They are responsible for their lawful and humane treatment at this stage of the process. They are also responsible through the chain of command for all unit-holding activity matters, to include security, administration, logistics and other operational support requirements including identifying medical support. They are directly responsible for the safety and security of all CPERS at the unit holding area and shall conduct regular inspections of the treatment and conditions of CPERS. They shall also ensure that a daily occurrence book is maintained. The unit holding officer must be supported by guards, sufficient staff to complete CPERS documentation and medical support staff. Unit holding officers are required to complete a CPERS holding facility guard force assessment on all nominated staff. The risk assessment form can be found at Annex 5A. Their responsibilities, which relate to the unit holding area, are the same as those in paragraph 4.25.

4.29. **Captured persons Holding Facility Medical Officer.** The CPERS Holding Facility Medical Officer, on behalf of the commander, is responsible for the quality of health care provided to CPERS. Normally a qualified general practitioner, the medical officer is responsible for ensuring that:

- admission and periodic medical examinations are carried out to the required standard;
- CPERS primary health care needs are met through daily sick parades;
- appropriate health protection and health promotion advice is available to the chain of command; and
- where necessary, CPERS suffering from illness or injury are referred to hospital in a timely and efficient manner.

The medical officer will lead a primary care team of doctors, nurses, medics and allied health professionals and provide health care governance and oversight of CPERS facilities forward of the CPERS holding facility. Full details of the Primary Healthcare Team's responsibilities are at Chapter 3.

4.30. **Detention senior non-commissioned officer.** The detention SNCO may be a member of the Military Provost Staff or Service police or a SNCO that has attended the operational detention course. The detention SNCO is to support the detention officer within the unit, or maritime equivalent, prior to deployment on operations, and support the detention officer, or the unit holding officer as necessary, while deployed on operations. They are to have specific responsibilities for the administration of CPERS.

4.31. **Force Provost Marshal.** The Force Provost Marshal is a Royal Military Police commissioned officer who is responsible for executing all of Provost Marshal (Army)'s statutory duties for custody and detention on deployed operations overseas.<sup>232</sup> Their role is to provide a safe and secure environment for CPERS<sup>233</sup> by the day-to-day oversight and first party assurance of the governance of UK detention facilities. They will be supported in the theatre detention facilities by the custodial specialists of the Military Provost Staff (of whom they will have operational command) and on the ground by the Royal Military Police. They should at all times have unrestricted access to all CPERS' facilities in theatre. The Force Provost Marshal should be independent from the in-theatre chain of command for the purposes of detention activity and must not be part of the Detention Authority. Their responsibilities at the following stages of detention are outlined below.

a. Initial detention.

(1) Ensure compliance with policy direction at point of capture through the technical guidance to commanders and staff on all issues relating to CPERS activity.

(2) Be responsible for producing and maintaining in-theatre detention standard operating procedures, as required, clearing them through PJHQ and Provost Marshal (Army).



Tactical recognition flash identifying Military Provost Staff

.....  
232 Defence subject matter expert for operational detention on overseas operations, adviser to Chief of Joint Operations for operational custody and detention practice and Army Competent Adviser and Inspectorate for custody and detention.

233 Compliant with the relevant and extant national and international legislation.

- (3) Be prepared to provide expert advice when planning, designing and constructing forward CPERS holding facilities.
- (4) Ensure that the appropriate record keeping is carried out.
- (5) Ensure that the timelines for moving CPERS back to theatre detention facilities are adhered to within the bounds of operational activity.
- (6) Whilst most stop, search, question and detention operations will be the responsibility of the chain of command, the Force Provost Marshal should promote the use of Royal Military Police and Military Provost Staff for major deliberate operations. Royal Military Police can be used for:

- supervising the searching of personnel, property and vehicles;
- advising on what items are of evidential value and their physical recovery and exhibiting; and
- training UK force element personnel in detention and evidence handling procedures.

b. Treatment in detention.

- (1) Protect the integrity of detention facilities ensuring they are free from vulnerabilities through physical barriers whilst maintaining the highest ethical standards.
- (2) Provide the professional and technical oversight of the Military Provost Staff.
- (3) Provide advice to J3/5 staff on the manning requirement for theatre detention facilities and the specialisations required therein, including contingency planning for situations where capacity in facilities are reached.
- (4) Ensure that all allegations of abuse and mistreatment are investigated by the appropriate investigative agency and timelines are adhered to.

(5) Provide direction for arrangements to ensure that CPERS are proactively asked whether or not they have any complaints concerning their treatment, before and on arrival at the CPERS holding facility.

(6) Facilitate inspection visits by the ICRC and, in conjunction with the Chief of Staff, policy and legal advisers, coordinate the commander's response to the ICRC recommendations and observations and ensure that they have been addressed by the chain of command.

(7) Inspect and report on any forward unit holding areas or divisional/battlegroup collection points once they have been constructed.<sup>234</sup>

(8) Inspect main UK detention facilities once per month in accordance with an inspection report prepared by the relevant Headquarters Provost Marshal (Army) custody and detention staff.

(9) Coordinate the legal, policy and operational issues surrounding detention in conjunction with the relevant staff.

c. Release or transfer.

(1) Ensure that the appropriate safe and secure release arrangements for CPERS are facilitated in accordance with UK government policy and international agreements.

(2) Ensure that all records are appropriately archived.

The tasks listed above are not exhaustive and any new issues arising should be discussed in the first instance with Headquarters Provost Marshal (Army).

4.32. **J1 staff.** J1 staffs have responsibility for:<sup>235</sup>

- accounting for, and tracking the whereabouts of, CPERS, including transfer and release<sup>236</sup> (in consultation with J3, J1 staffs must ensure

234 Force Provost Marshal may be supported by the Adjutant General's Corps (AGC) (Military Provost Staff (MPS)) in this function.

235 The staff responsibilities that follow may need to be replicated in component command headquarters to facilitate CPERS handling at the tactical level.

236 Information on the whereabouts of all CPERS should be forwarded to the Prisoners of War Information Bureau. See Chapter 4, Section 5 and Annex 13A.

they provide adequate information technology resources to enable this activity);

- the force generation of officers and staffs to run collection points and CPERS holding facilities within the joint operations area, as agreed in the J3/5 developed operation establishment table;
- in conjunction with the legal adviser, determining the initial status of CPERS, where it is not clear from the outset;<sup>237</sup>
- making arrangements for transferring, moving, releasing and repatriating CPERS;
- all aspects of information management for CPERS, including the proper archiving of all records, files, registers and electronic media types; and
- consolidating the information of CPERS who are receiving treatment in a medical facility into a theatre CPERS casualty report that they are to forward to the Prisoners of War Information Bureau.<sup>238</sup>

4.33. **J2 staff.** J2 staffs have responsibility for the following.

a. **J2X(I).** The J2X(I) is an in-date qualified interrogator controller and tactical questioner. They are a commissioned officer responsible for providing specialist advice to the commander on the conduct of tactical questioning and interrogation. They maintain an oversight function to ensure compliance with MOD policy and authorising directives. The J2X(I) is the single point of contact for all theatre tactical questioning and interrogation issues. Further information can be found within the Defence tactical questioning and interrogation policies.

b. **Interrogator controller.** The interrogator controller is a trained and experienced subject matter expert and is the first and most direct level of supervision over the interrogator and any interpreters. They will monitor all sessions on a one-to-one basis. Further information can be found within the *Defence Interrogation Policy*.

237 See Annex 1A for the procedure to determine status.

238 See Annex 3C.

c. **Unit tactical questioning coordinator.** The unit tactical questioning coordinator is a trained and current subject matter expert, responsible for providing advice to the commander on all aspects of the conduct, compliance and reporting of tactical questioning activity. At least one officer or warrant officer, or an exceptionally able SNCO, should be selected to fulfil the role of unit tactical questioning coordinator. Further information can be found within the *Defence Tactical Questioning Policy*.

4.34. **J3 staff.** J3 staffs are the lead staff branch for CPERS matters and are responsible for:<sup>239</sup>

- overseeing CPERS training delivery as part of the preparation for operations;
- producing estimates of likely numbers and categories of CPERS before an operation begins (assisted by J2/5);
- produce operational establishment table that specifies the tasks and numbers of personnel required to run collection points and CPERS holding facilities within the joint operations area to enable the force generation process (each role should have an associated job specification with task, qualifications, skill set, experience and rank of each individual);
- issuing instructions to activate the CPERS handling organisation;
- selecting locations for collection points and CPERS holding facilities, and issuing orders to units for their construction;
- identifying and allocating units to the CPERS handling organisation commander to act as guards and escorts and the issuing of orders for these tasks;
- ensuring that sufficient trained, current tactical questioners are available; and
- issuing instructions and timelines for moving CPERS through the handling process.

.....  
239 Letter, Chief of Staff Operations PJHQ reference PJHQ/1/Detention Policy, 22 February 2008.

4.35. **J4 staff.** J4 staffs are responsible for:

- procuring and providing construction materials and stores to establish collection points and CPERS facilities;
- allocating resources and establishing the supply chain for feeding, clothing, moving, accommodating and the daily administration of CPERS;
- producing administrative instructions covering the feeding, clothing, movement and accommodation of CPERS;
- planning for providing sufficient resources to meet the requirements of projected CPERS numbers;
- issuing instructions (with J1) for the medical examination and treatment of CPERS and, where necessary, establishing dedicated medical facilities;<sup>240</sup> and
- making arrangements for the movement of CPERS.<sup>241</sup>

4.36. **J5 and J7 staff.** J5 and J7 staffs are responsible for planning all CPERS activities, including the liaison necessary for reintegration operations.

4.37. **Policy adviser.** The senior UK policy adviser is the conduit for all cross-government in-theatre captivity issues. They are to provide:

- daily liaison between our Armed Forces and the host nation government through the British Embassy for UK CPERS issues;
- daily liaison between our Armed Forces and any coalition forces for all UK CPERS issues; and
- advice on UK captivity policy to the Detention Authority when requested.

4.38. **Legal and policy advice.** CPERS legal and policy advice must be sought through the chain of command, through the commander's legal adviser, policy adviser and, where deployed, humanitarian and cultural adviser.

.....  
240 See Chapter 3.

241 See Chapter 8.

Theatre and strategic advice will be provided by PJHQ J9 legal, Deputy Director MOD Legal Advisers (Operational and International Humanitarian Law), Security, Policy and Operations Directorate (on CPERS issues) supported by Operational Law SO1 CPERS. Separate legal advice will be available to the Detention Review Authority and will be provided (in theatre or via 'reachback') from outside the operational chain of command.

4.39. **Assisting officers.** In certain circumstances a nominated individual may be appointed to assist a CPERS for proceedings before an Article 5 tribunal or the Detention Review Authority. Their duties are limited to only those proceedings and they are not a general representative of the CPERS. An assisting officer may assist more than one CPERS at the same time. Further guidance on the roles and responsibilities of the assisting officer is at Annex 1C.

4.40. **International Committee of the Red Cross.** Representatives of the ICRC, including members of Central Tracing Agency, are available to give advice to planning staffs during the planning phase of an operation. Although operational security may prevent early engagement, J1 staff at PJHQ are encouraged to take advantage of this arrangement, liaising through the MOD. More generally, where operational security and policy considerations permit, liaison with the ICRC through MOD channels is a valuable source of advice and should be encouraged.

## Section 4 – Advisory visits and inspections

4.41. The purpose of advisory visits and inspections is to assess the management, administration, infrastructure, compliance and security of the CPERS handling process. Inspections and visits provide an opportunity for both the chain of command and those placed in charge of CPERS facilities to ensure best practice and compliance with the UK's obligations under international law. When carried out as a part of a system of periodic visits, regular inspections of CPERS facilities (where feasible, independent of the MOD) constitute one of the most effective preventative measures against torture, cruel, inhuman and degrading treatment, or abuse in any form.

4.42. Governance and assurance visits and/or inspections are essential for the running of any CPERS holding facility. Effective first party assurance

is provided by the chain of command using subject matter experts as appropriate (Force Provost Marshal, Theatre Medical Director and the legal adviser). Second party assurance is provided by Provost Marshal (Army) and their staff. Third party assurance is provided by the ICRC. Consideration must be given to an appropriate authority conducting independent inspections of UK-run unit holding facilities.

4.43. Representatives and delegates of protecting powers and ICRC delegates have the right to investigate the treatment and administration of CPERS wherever they may be and are to be allowed to interview them without witnesses being present or monitoring or recordings being made. Our Armed Forces are to assist them as much as possible in this work. This right can be temporarily suspended by the MOD for reasons of imperative military necessity and then only as an exceptional and temporary measure.<sup>242</sup> It should be noted that the UK's standing in the eyes of the international community will depend, to a large extent, on the conclusions of the reports from these bodies. Enabling full and open inspections and scrupulously adhering to the principles in this publication will assist in showing that the UK takes its obligations towards CPERS seriously. The background and the functions of the bodies which conduct the visits and inspections, together with details of the procedures involved, are detailed below.

### The International Committee of the Red Cross

4.44. The ICRC is a neutral, independent and impartial international humanitarian organisation created by the Geneva Conventions whose unique mandate and legal status set it apart from other international organisations. In most of the countries in which it works, the ICRC has concluded agreements with national authorities. Through these agreements, the ICRC enjoys the privileges and immunities normally only granted to intergovernmental organisations (such as the United Nations), for example, immunity from legal process and the inviolability of its premises, archives and documents. Such immunities are vital in preserving the ICRC's impartiality and independence.

4.45. The ICRC has a number of roles stemming from its principal responsibility for monitoring the application of the Geneva Conventions and Additional Protocols by state parties, among others: giving aid to, and improving the conditions of captivity for CPERS; acting on behalf of civilian populations to relieve suffering; and acting as a Central Tracing Agency for CPERS and missing persons. Therefore, the ICRC has a vital role to play in

.....  
242 GC III, Art 126; GC IV, Art 143.

advising states of their obligations to treat CPERS humanely and they are often influential in persuading states to meet their obligations in this regard.<sup>243</sup>

**CPERS have the right to contact the ICRC.**

4.46. During an international armed conflict the ICRC has a right of access and a right to privately interview CPERS.<sup>244</sup> CPERS have the right to contact the ICRC and Annex 4B provides an example poster. During a non-international armed conflict the ICRC can offer its services to perform similar visits.<sup>245</sup> MOD policy is to provide the ICRC with information about, and access to, all facilities and all CPERS as fully and rapidly as practicable and to permit CPERS unfettered correspondence with the ICRC.

4.47. A crucial element supporting the role of the ICRC is the fact that it does not criticise governments publicly and that their reports to governments remain confidential. It is important that this confidentiality is not compromised by the disclosure of ICRC reports or the results of an ICRC visit to the media or other parties. Although not obliged to do so, as a matter of practice the ICRC will notify the commandants of UK CPERS facilities of their visit although they have a legally based right to immediate, free and unfettered access to all places where CPERS are held.<sup>246</sup> The ICRC has the right to conduct interviews with CPERS without witnesses being present.<sup>247</sup> Having conducted an inspection visit, the ICRC's likely responses are:

- an oral report to the commander in charge of the CPERS facility on the observations or findings made during the visit;
- a report in the form of a local working paper (often copied to PJHQ and MOD Service Personnel Policy);
- a report on specific facilities, or on specific CPERS or groups of CPERS;
- a standard report on all facilities in theatre;

243 See JSP 383, paragraph 16.13.

244 GC III, Art 126; GC IV, Art 143.

245 Common Article 3 to the Geneva Conventions.

246 Although the legally based right is only strictly applicable in international armed conflict, MOD policy is to apply this rule to CPERS in all operations.

247 See GC III, Art 126. Non-governmental organisations (for example, Amnesty International) have no such rights.

- formal intervention via the British Embassy in the host country (where applicable) and/or in Geneva; and
- engagement in a confidential dialogue at the highest level in the MOD and other relevant authorities in the UK.

4.48. All ICRC reports submitted in theatre are to be forwarded immediately to the MOD, through the Joint Task Force Commander and PJHQ. In most cases – and in every case where there has been criticism of a facility or of the handling of a particular CPERS – Provost Marshal (Army), the theatre legal adviser and ministers will be informed and press lines prepared. However, ICRC reports are not to be disclosed. In the event of accidental disclosure or loss, an investigation or review should be initiated where this has not already been done.<sup>248</sup> When the ICRC has suggested changes to the holding facility regime, the MOD would need to know what practical steps could be taken in theatre to meet the concerns expressed. ICRC reports held by the MOD and any information contained in the reports may be withheld from disclosure under the Freedom of Information Act 2000.

During allied or coalition operations ICRC reports are only to be released to the national contingent commander. Usually, national contingent commanders may release the report to the Senior UK Officer within the theatre headquarters without recourse to the MOD. Further release to the coalition headquarters (for example, North Atlantic Treaty Organization (NATO) headquarters) for distribution to non-UK staffs will only be authorised by the MOD after consultation with the Foreign, Commonwealth and Development Office (FCDO) and the ICRC.

ICRC reports are confidential and are not to be disclosed.

### The protecting power

4.49. The purpose of this publication, a protecting power is defined as: a non-belligerent state designated by a party to the conflict and accepted as such by other parties to the conflict.<sup>249</sup> It must agree to carry out the functions

248 For example, into an allegation of abuse or where poor facilities or poor camp layout are alleged.

249 See AP I, Arts 2 and 5 for further detail.

assigned to it. A substitute is an organisation acting in place of the protecting power when such agreement cannot be reached, a role that is often de facto carried out by the ICRC.

4.50. The MOD's policy is to ensure that all CPERS benefit from the protecting power protections, where a protecting power is designated. In practice, it has proven difficult to find a nation that opposing belligerents agree is truly neutral, and so, an international humanitarian organisation, such as the ICRC, performs at least some of the functions of the protecting power. These include investigations of the treatment and administration of CPERS.

4.51. **Discharge of responsibilities.** The protecting power will discharge its responsibilities through representatives or delegates.

- a. **Representatives.** The normal diplomatic and consular personnel of the protecting power.
- b. **Delegates.** Persons appointed by the protecting power to discharge its functions under the Geneva Conventions. Delegates will normally be nationals of the protecting power or of another neutral state. It will normally be the delegates who ensure, through physical checking, that CPERS are being treated correctly.

## The roles of committees for the prevention of torture

4.52. A number of treaties and conventions focus on the prevention of torture. Consequently, there are a number of mechanisms for enforcing the provisions of these instruments as detailed below.

- a. The UN Convention against Torture.
  - (1) The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment holds a key position in respect of the implementation of the UN Convention against Torture. Their role is to examine questions relevant to torture and to report to the UN Human Rights Council on the extent to which torture and other cruel, inhuman or degrading treatment or punishment is still practised around the world. Part of the mandate of the Special Rapporteur is to undertake fact-finding country visits, although all such visits must be by invitation of the host nation. The visits provide the Special Rapporteur with a first-hand account of

the situation concerning torture, including institutional and legislative factors that contribute to such practices. If the host nation authorises an inspection, our Armed Forces must cooperate.

(2) The UN Committee against Torture is a mechanism to enforce the Convention. The UK made a declaration accepting the competence of the UN Committee to receive and consider communications from states claiming that another state is failing to fulfil its obligations under the convention. The UN Committee is involved mainly in considering reports from states about their implementation of the convention. The UK provides regular reports covering a range of relevant matters concerning detention facilities in the UK. The UN Committee has since made recommendations to the UK to accept the full application of the convention to CPERS activities abroad. This point is currently under discussion and further guidance will be issued in due course from the MOD and the FCDO.

(3) The Optional Protocol to the Convention<sup>250</sup> aims to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, to prevent torture and other cruel or inhuman treatment. It established the Subcommittee on the Prevention of Torture which operates in conjunction with the Committee against Torture. This Committee can visit all places in States Party to the Protocol where persons are deprived of their liberty. The UK position in relation to the applicability of the Optional Protocol to the Convention is under discussion and further guidance will be issued in due course from the MOD and the FCDO.

b. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment established the Committee for the Prevention of Torture. This Committee shall, by means of visits, examine the treatment of CPERS with a view to strengthening the protection of such persons from torture and inhuman or degrading treatment or punishment. The Committee can visit any UK CPERS facilities where the European Convention of Human Rights is considered to be applicable. Further guidance will be issued in due course from the MOD and the FCDO.

.....  
250 Ratified by the UK on 10 December 2003.

## Provost Marshal (Army)

4.53. As an Army Competent Adviser and Inspectorate, Provost Marshal (Army) is the Defence subject matter expert for operational detention on overseas operations.<sup>251</sup> Provost Marshal (Army) will be responsible for inspecting and monitoring all UK-run CPERS facilities within operational theatres to ensure the standards set out in policy and doctrine are upheld and will provide advice on all aspects of CPERS handling operations. They shall be granted unrestricted access to all UK-run operational CPERS facilities and will prepare reports on them. Provost Marshal (Army) also acts as the adviser to Chief of Joint Operations for captivity and CPERS handling matters.

4.54. **Provost Marshal (Army) inspectorate staff.** Provost Marshal (Army) will conduct inspections supported by dedicated custodial staff from Headquarters Provost Marshal (Army) wherever possible. This provides essential second party assurance over UK-run CPERS facilities. If the operational situation precludes this, the authority to inspect may be delegated by Provost Marshal (Army) to the Military Provost Staff in theatre under the management of the Force Provost Marshal.

4.55. **Timing of the inspections and advisory visits.** Provost Marshal (Army)'s Military Provost Staff will have been involved in the construction of CPERS holding facilities. To monitor and advise upon areas of compliance, Provost Marshal (Army) or their nominated representative should, where practicable, conduct advisory visits or inspections:

- within one month of the CPERS holding facility becoming operational;
- every three months thereafter for advisory visits;
- every six months thereafter for formal inspections;
- whenever there is an adjustment to the CPERS holding facility, for example, an increase in holding capacity or structural adjustments; and
- on an ad hoc basis when directed to do so by Provost Marshal (Army) – for example, as a result of a complaint or a security incident – or when requested to do so by the CPERS holding facility commandant.

.....  
251 See *MOD Strategic Detention Policy, 2020*.



An inspection being carried out at the CPERS holding facility

4.56. **Areas for inspection.** The areas for inspection will be decided by Provost Marshal (Army). In addition, specialist staff<sup>252</sup> should also conduct inspections and reviews to include:

- the provision of food and water;
- hygiene and sanitation;
- medical; and
- having taken legal and policy advice, arrangements under which individuals' captivity is periodically reviewed.

The following list is not exhaustive, but it gives an outline of the areas to be inspected by Provost Marshal (Army) or their inspectorate staff.

.....  
<sup>252</sup> For example, medical officer, legal adviser, health and safety inspector, fire inspector and policy advisers.

Inspection areas	
Compliance with the Geneva Conventions and Additional Protocols as relevant, UK domestic law and policy, UN standards and in-theatre instructions and orders	Segregation and use of solitary confinement
Humane treatment, including access to daylight and exercise	Health care and environmental health issues
Command and control, governance and assurance measures	Religious and cultural matters
Treatment of vulnerable groups, juveniles, children, women, physically and mentally disabled and others	Education and rehabilitation/reintegration programmes
Security, infrastructure and equipment	Complaints procedure
Orders, and search and incident procedures	Discipline policy, punishments, use of force and use of restraints
The interface between captivity and interrogation, including treatment during interrogation	Fire, health and safety, and equality and diversity issues
Access to legal representation	Visits procedure
Manning and staff training	Exercise and work policy
Documentation, property, information management and archiving policy	Feeding

4.57. **Inspection report.** Following each inspection, a report is to be produced outlining the areas inspected and confirming whether the standards for each area have been met. The report must state which aspects are mandatory and which are advisory and should cover:

- areas of compliance;
- areas where standards may be improved;
- factors contributing to non-compliance, for example, lack of logistic provision;

- corrective action required and guidance on how to achieve compliance with associated priorities and guidelines;
- recommendations for any immediate remedial action to be taken and advice on required improvements; and
- an opportunity for the CPERS holding facility commandant to comment.

### Defence human intelligence governance and oversight

4.58. An additional and separate governance mechanism covers the conduct of human intelligence (HUMINT) operations including tactical questioning and interrogation. This structure is detailed within the Defence policies for tactical questioning and interrogation.<sup>253</sup> The lowest level of governance and oversight is the operator, controller/coordinator, then J2X(I). Following which a monthly case management board will report to the Investigatory Powers Commissioner during regular inspections. If a novel or contentious issue arises, it will be considered by the MOD Supervisory Authority prior to Investigatory Powers Commissioner inspection. As per MOD policy, HUMINT specialists will conduct inspections of all tactical questioning and Interrogation activity.

## Section 5 – The National Information Bureau

4.59. The Geneva Conventions place a duty on all parties in an international armed conflict to open a National Information Bureau (NIB) at the outset of hostilities.<sup>254</sup> They also require neutral and non-belligerent nations to open a bureau if there is a likelihood of those who may be categorised as prisoners of war or internees finding their way into neutral or non-belligerent territory.<sup>255</sup> The NIB exists to receive and transmit important information<sup>256</sup> used to monitor the details, whereabouts and health of CPERS, and to facilitate contact with their next of kin.

.....  
 253 *Defence Tactical Questioning Policy*, 12 August 2020 and *Defence Interrogation Policy*, 12 August 2020.

254 GC III, Art 122; GC IV, Art 136.

255 GC IV, Art 140.

256 As required and in accordance with GC IV, Art 136.

4.60. While the requirements of the NIB are mandatory in relation to prisoners of war and internees detained for over two weeks, the provisions do not strictly apply to detainees or internees in a non-international armed conflict.<sup>257</sup> However, as a matter of policy the provisions should be applied to all CPERS. In a non-international armed conflict, reporting on internees or detainees is the responsibility of PJHQ.

4.61. In operations other than armed conflict, the UK may open a NIB or something similar. Where a NIB does not exist, PJHQ will take on the responsibilities and tasks of the bureau.

4.62. The Geneva Conventions also provide for the establishment of a Central Agency in a neutral country (which is normally the protecting power) to which all of the NIBs report.<sup>258</sup> In practice, this role is subsumed by the Central Tracing Agency of the ICRC.

4.63. Our Armed Forces must provide the NIB, or equivalent, with each prisoner of war's and each internee's full name (including variations and as expressed locally), rank, army, regimental, personal or serial number or equivalent information. Additionally, if known, the following information should be provided: place and full date of birth, their nationality, first name of father and maiden name of mother (where appropriate), name and address of the person to be informed and the address to which correspondence of each CPERS should be sent. Furthermore, for internees, the last known place of residence and the date, place and nature of any action taken with regard to the individual is also required. In addition, the NIB shall receive information regarding transfers, releases, repatriations, escapes and attempted escapes, admissions to hospital and deaths. This notification is mandatory for prisoners of war and internees and our Armed Forces are to transmit such information by the fastest possible means.<sup>259</sup> Any policy concerning detainees will be published to the NIB and more broadly.

4.64. In the UK, the NIB comprises two components.

- a. **The Civilian Information Bureau.** The Civilian Information Bureau is run by the Home Office and is responsible for the recording and reporting of foreign nationals held in captivity within the UK.

.....  
257 GC IV, Art 136.

258 GC III, Art 123; GC IV, Art 140.

259 GC III, Art 122.

b. **The Prisoners of War Information Bureau.** The Prisoners of War Information Bureau will report on all prisoners of war and internees captured by our Armed Forces during international armed conflict. Responsibility for the operation and management of the Prisoners of War Information Bureau lies with Veterans UK, an executive agency of the MOD which works to the Deputy Chief of the Defence Staff (Personnel). The focus for wider CPERS and captivity-related policy responsibilities within the MOD lies with the Security, Policy and Operations Directorate.<sup>260</sup>

.....  
<sup>260</sup> Letter from Deputy Chief of the Defence Staff (Personnel) to the ICRC Central Tracing Agency, reference D/DCDS(Pers)Strat/21/1/5, 18 December 2008.

## Annex 4A

# Aide memoire for commanders

4A.1. Experience has shown that having a robust system of governance in captured persons (CPERS) handling is a vital safeguard in ensuring that humane standards are met. Commanders must aspire, and wherever possible adhere, to the principles listed below. Although the nature of operations means it may not always be possible to implement them all completely, failure to do so will introduce considerable extra legal, reputational and operational risk into the system.

4A.2. Commanders must:

- understand their responsibilities as set out in this publication;
- avoid conflicts of interest to ensure that they make demonstrably objective decisions affecting CPERS;
- ensure that access to CPERS is limited to authorised Service personnel and authorised representatives of organisations, such as the International Committee of the Red Cross, details of which must be recorded;<sup>261</sup>
- issue orders to those responsible for CPERS to ensure that they understand their duties and responsibilities, especially in unusual or difficult situations (for example, a CPERS requiring medical attention or actions during incoming fire);
- ensure that all those responsible for CPERS handling are aware of the requirement to treat all CPERS lawfully and humanely, the five prohibited techniques and other prohibited actions;<sup>262</sup>
- put in place CPERS handling supervision (for example, periodic checks by officers, warrant officers or senior non-commissioned officers);

261 See Annex 2A, 'Guidance on standing orders'.

262 See Chapter 2.

- whenever possible, ensure that CPERS are kept apart from UK Armed Forces who may have emotional attitudes to CPERS, such as friends of UK casualties;
- whenever possible, use members of the Military Provost Staff (as Defence subject matter experts in CPERS handling practice) or in their absence Royal Military Police; and
- report all instances and allegations of abuse of CPERS (including any circumstances indicating it may have occurred) to the Service police and chain of command immediately and preserve the scene of any incident or physical evidence that may assist any investigation.

## Annex 4B

# Example of a ‘right to contact the ICRC’ sign

4B.1. All signs must be translated into the necessary languages for all captured persons to understand.

It is your right to contact the ICRC



# ICRC

**Speak to a member of staff**

4B



# Chapter 5

Chapter 5 sets out the responsibilities and requirements when training and selecting our UK Armed Forces for CPERS activities.

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“

Training should cover the principle of individual and command responsibility and the requirement to prevent and suppress violations by others.

”

## Chapter 5

# Training and selection of UK Armed Forces personnel dealing with captured persons

## Section 1 – Introduction

5.1. There is a legal obligation upon states to train and educate members of their armed forces on the Law of Armed Conflict (LOAC),<sup>263</sup> to issue orders and instructions requiring compliance with the LOAC and to take steps to ensure that those orders are obeyed.<sup>264</sup> The Development, Concepts and Doctrine Centre's Operational Law Training Customer Executive Board (Op Law Training CEB) conducts this assurance on behalf of Defence and reports to the Vice Chief of the Defence Staff. Ignorance of the law is not a defence and the first step to ensure compliance with LOAC is to ensure as wide a knowledge of its terms as possible.

5.2. Members of our Armed Forces are likely to deal with captured persons (CPERS) in the course of military operations. The requirement may include handling large numbers of CPERS during an armed conflict either in the land environment or when transporting them by air or sea. It may also arise when conducting peacekeeping operations. To assure the correct treatment of CPERS, it is essential that all members of our Armed Forces are fully trained in CPERS handling practices and that they are prepared to deal with CPERS during an operation.

As a key skill, every individual in our Armed Forces must be aware of the minimum standards that apply to CPERS handling.

.....  
263 Geneva Convention I 1949 (GC I), Article (Art) 47; Geneva Convention II 1949 (GC II), Art 48; Geneva Convention III 1949 (GC III): 127; Geneva Convention IV 1949 (GC IV), Art 144; Additional Protocol I 1977 (AP I), Art 83; Additional Protocol II 1977 (AP II), Art 19.

264 AP I, Art 80.

5.3. Training is essential. It must include theory and practical training to develop the skill sets required to deal with CPERS in all situations. The training must prepare our Armed Forces to be able to deal with CPERS, even when unexpectedly confronted by numerous CPERS. The theoretical underpinning for this activity must include current policy and doctrine (including key UK policy statements), applicable UK domestic law, host nation law and LOAC. Pre-deployment training should supplement and build upon the existing LOAC training given by each of the single Services.

5.4. Training should cover the principle of individual and command responsibility and the requirement to prevent and suppress violations by others. It is essential that all members of our Armed Forces are aware of the system to follow should they be concerned about the actions of others; the procedure to report concerns must be included in any training. In addition, training should include the measures that the chain of command will put in place to protect members of our Armed Forces who make allegations against others for violations of LOAC. To reinforce the requirement to comply with LOAC, training should also cover the consequences, including the sanctions, of violating LOAC.<sup>265</sup>

5.5. It is also essential to include training and instruction on basic human rights, including an understanding of offences such as torture, cruel, inhuman or degrading treatment as defined in international law. The consequences of failure to comply with human rights obligations should be incorporated into the training, and therefore the penal and other sanctions under human rights law should also be covered.

5.6. Practical training is the responsibility of the single Services and should cover all aspects of the planning, support for, and conduct of, CPERS activities. It should cover the requirement to maintain a robust system of CPERS record keeping. It should form part of, and be included in, existing tiered operational training arrangements and should be incorporated into routine unit training activity. Dealing with CPERS should be exercised in single-Service and joint scenarios. It should also address multinational operations. Exercises for commanders need to train and test in CPERS handling issues and problems, including in the command and control of tactical questioning; this should be a particular priority for mission-specific training. Commander Joint Force Command has the overall responsibility for developing, implementing, monitoring and refining standards, policies and standard operating procedures consistent with the applicable laws and

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<sup>265</sup> For details on criminal offences see Chapter 4, Section 2.

regulations. The commander is to ensure the effective, routine review of CPERS activities and related training.

Commanders will be held accountable for training their units.

5.7. To ensure that all personnel receive regular updates and refresher courses, commanders must maintain a record of all personnel within their unit who have undergone training. Commanders will be held accountable for the training of their units and, therefore, clear audit trails of training undertaken both as a unit and individual are essential.<sup>266</sup>

## Section 2 – Routine training

5.8. Basic initial training units are to provide LOAC training to all members of our Armed Forces. Individual units are then required to provide subsequent training at specified and regular stages throughout the individual's career. The requirement and further detail of the training to be provided is in Joint Service Publication (JSP) 822, *Defence Direction and Guidance for Training and Education*. The obligation to set the LOAC training requirement falls to the Op Law Training CEB chaired by the Development, Concepts and Doctrine Centre but the responsibility for delivering LOAC training falls to the single Services and the Defence Academy, suitably supported and advised by the training delivery authorities and the single-Service legal directors.

5.9. All training must reflect the requirement to act in accordance with LOAC and in particular to recognise and protect CPERS in accordance with extant rules. Such training is appropriate to all ranks. During periods of routine training, each unit is to appoint a detention officer who is to ensure that Service-specific military annual training tests (for example, Core Maritime Skill 7, Military Annual Training Test 6 and RAF Individual Readiness Training) and other training relevant to CPERS<sup>267</sup> inculcates the vital messages about the correct handling of CPERS.<sup>268</sup>

.....  
266 *The Army Inspectorate Review into the Implementation of Policy, Training and Conduct of Detainee Handling*, 15 July 2010, stipulates that Headquarters Land Forces should hold subordinate commanders accountable for ensuring that all units receive training and that auditable records of training are maintained.

267 For example, *Close Combat – Survivability: Fieldcraft, Battle Lessons and Exercises*, Army Code 71717, June 2017, Battle Lesson 29.

268 See paragraph 4.27.

## Section 3 – Training for operations

5.10. Commanders should ensure that all personnel under their command receive the operation-specific pre-deployment training as mandated by the Chief of Joint Operations prior to any deployment.<sup>269</sup> Such mission-specific training should include scenarios which test the staff and units in all aspects of CPERS operations, including suitably pitched training on the risks of positional asphyxia/death by struggle against restraint, tactical questioning, media operations, humane treatment of CPERS in transfer and at the holding facility, and dealing with certain groups of CPERS, such as juveniles or family groups.



Service personnel under instruction during a training serial

5.11. Commanders must ensure that all members of our Armed Forces deploying on a specific operation receive a tailored legal brief consisting of a refresher on LOAC together with a specific brief on the rules of engagement for that particular operation or deployment. In addition, they are to ensure that our Armed Forces who are due to deploy receive appropriate CPERS handling training from the Military Provost Staff or Service police upon arrival in the theatre of operations (during reception, staging, onward movement and integration (RSOI)) and refresher training during their tour. The training must emphasise the requirement to treat all CPERS humanely. The

obligation for setting the requirements of pre-deployment and RSOI brief falls to the Permanent Joint Headquarters (PJHQ), informed by Provost Marshal (Army). The responsibility for delivering the training falls to the single Services or the deployed headquarters. The detention officer will act as the focus for CPERS matters during mission-specific training.<sup>270</sup>

5.12. All commanders must ensure that an audit trail is kept of all training and refresher courses, with details of attendees. Once an individual has received mission-specific training, the units responsible for the training should ensure that a record is made on the personal training record of every individual who has undertaken the training, preferably on Joint Personnel Administration (JPA). All materials used for CPERS training must also be retained, catalogued and archived. Such cataloguing is to state the date the material is used and the

269 Permanent Joint Headquarters pre-deployment training requirements.

270 See paragraph 4.27.

version number. It should state where the material has been, or may be, subject to updating or modification. This demonstrates that not only did training take place but also the nature of the training and who took part. It is imperative that this task is undertaken methodically as the Ministry of Defence (MOD) has been subject to criticism by the Courts in circumstances where it has been unable to produce material relating to training at a particular time or location.

5.13. Where possible, commanders should ensure that task-specific training is given to those personnel who will work in CPERS handling facilities which should include:

- enhanced cultural awareness training (including language training) in the basic instructions necessary for use in CPERS handling facilities;
- standard operating procedures;
- conducting searches;
- safe movement and control of CPERS;
- the use of force; and
- public order training to deal with situations of unrest.

Custodial training should be delivered by members of the Military Provost Staff and Royal Military Police. Training should also be given to all medical personnel involved in CPERS activities as set out in Chapter 3, Section 7. Ideally, prior to a new CPERS holding facility being occupied by CPERS there should be a test exercise held to validate the training of personnel working there or supporting the facility, such as dog handlers, medical services, sniper teams for possible use in resolving hostage situations, and quick reaction forces. The Custodial Branch of Headquarters Provost Marshal (Army) will be able to advise on the nature of such training and test exercises.

5.14. Deploying Military Provost Staff must be current in use of force, public order, baton and quick-cuff trained prior to deploying. Additionally, all Royal Military Police personnel must be public order trained.



**Public order training to deal with situations of unrest**

5.15. Service legal officers from PJHQ and Provost Marshal (Army), or their representatives, should provide training and briefings to those commanders who will have specific responsibilities for the long-term management and oversight of CPERS. Such instruction is mandatory for any individual who will act as the Detention Authority or Detention Review Authority.

5.16. Examples from history and the results of academic studies show that there are a number of factors that act as indicators for possible abuse of CPERS, as illustrated in Figure 4.2. Some of these factors arise during the course of a force serving in an operational theatre. Commanders are to familiarise themselves with these factors and apply them when assessing their own forces. They will assist commanders when deciding whether to deliver remedial training and, during the course of an operation, will help to mitigate against the effects of those factors.

5.17. Those individuals who will comprise the Case Management Board should attend pre-deployment training delivered by the Defence School of Intelligence, covering governance of human intelligence (HUMINT) operations, including tactical questioning as well as interrogation. All commanders of units with trained tactical questioners are to attend PJHQ for a J2X tactical questioning pre-deployment briefing.

## Section 4 – Selecting our Armed Forces personnel to deal with captured persons

5.18. Long-term CPERS operations may be unpopular with the host nation population and also with soldiers, who rarely relish the notion of being used as a guard force. Therefore, the single most important component of long-term CPERS operations is leadership. This must be strong, ethical and effective – from the most senior to the most junior appointments. Commanders at all levels must ensure that they set a culture committed to high standards of personal and professional conduct and emphasise to all under their command that anything less is unacceptable. The command climate is a principal factor in setting the attitudes and influencing the actions of the soldiers involved in delivering the process.

A commander's ethics and moral courage are vital to successful leadership of CPERS activities.

5.19. Service personnel must know the standards expected of them. They must carry out CPERS duties conscientiously:

- with honesty and integrity;
- with a strong sense of both responsibility and accountability for their actions; and
- by treating CPERS humanely, fairly and with decency and respect.

5.20. Commanders must take positive steps to discourage the use of group labels or nicknames for CPERS and the local populace, as experience has shown these to have a dehumanising and depersonalising effect, which can lead to an increased likelihood of abuse.

5.21. Inevitably, some Service personnel will be less suited to any direct contact with CPERS, particularly long-term contact, than others due to temperament or other circumstances. In such cases, the chain of command must ensure that steps are taken to mitigate risk as far as is practicable. Vulnerability to wrongdoing may arise through pressure or manipulation by other soldiers or by CPERS, or from personal circumstances which may render an individual susceptible to financial or other pressures or inducements, or to venting frustration. To assist commanders in making their assessment of suitability for direct long-term contact with CPERS, they must consider all the factors, including those listed at Annex 5A for each Service person and sign the risk assessment document to that effect. The document is not to be used as the basis of an interview; it is to be used as a record that the commanding officer has applied the factors to their knowledge of the Service person when determining the suitability of that Service person for employment within the guard force.

5.22. The consequences of selecting inappropriate guards or tactical questioners can be serious and cannot be over-emphasised. Many CPERS will either have served in the military or have links to serious organised crime, or terrorist groups which have a global reach. They may be familiar with UK procedures and capable of assessing our Service personnel's behaviour and conduct. They may seek ways to exploit weaknesses to their advantage, including employing threats and coercion. CPERS will easily distinguish an efficient unit from a badly run one and will look for softer opportunities when making escape or disruption plans.

5.23. After guarding CPERS in extreme conditions for lengthy periods there may be a danger of burnout. Warning signs that the chain of command should watch for include:

- asking to be placed on other duties;
- short temper;
- an increase in swearing and yelling; and
- fatigue.

The chain of command should take timely remedial actions to deal with such cases.

## Annex 5A

# Captured persons holding facility guard force risk assessment

## OFFICIAL SENSITIVE PERSONAL (WHEN COMPLETED)

Serviceman/woman details			
Number		Rank	
Name		Initials	
Ship/Coy/ Bty/Sqn		Platoon/Troop	
Age		Days in theatre	

5A

**I have considered the following factors in determining the suitability of the above named Service person for CPERS Holding Facility Guard Force duties:**

1. History of violence.
2. History of self-harm, post-traumatic stress disorder, or mental illness.
3. Currently on Theatre Risk Register.
4. Operational incidents involving this individual or friends/colleagues.
5. Beliefs and prejudices in relation to the current deployment/operation.
6. Beliefs and prejudices in relation to CPERS.
7. Welfare issues that may affect behaviour or judgement (e.g. pregnant girlfriend, debt).
8. General maturity and attitude.
9. Any other factors that may affect suitability for employment.

Recommendation by Commanding Officer:

Direct interface/internal guard force	YES	NO
Guard force but not direct interface	YES	NO
Not to be employed in CPERS holding facility	YES	NO

OFFICIAL SENSITIVE PERSONAL (WHEN COMPLETED)

**Commanding Officer**

Number ..... Rank..... Name.....

Unit..... Signature ..... Date .....

**Notes:**

1. All relevant information must be considered. The decision as to whether or not a Service person is deemed suitable for employment in any area of the CPERS holding facility is the responsibility of the commanding officer.
2. A commanding officer should use this document as a tool to assist in assessing the suitability of a Serviceman/woman for employment within a CPERS holding facility. This document should not be used as the basis of an interview, but the factors listed should be considered on the basis of the knowledge of the Service person.
3. Consideration of the factors will assist in producing a view of the Service person's character which, when combined with sound military judgement, should allow commanders to make an informed decision on suitability for employment in a CPERS holding facility.
4. A commanding officer is to categorise a Service person as either suitable for *direct interface/internal guard force*,<sup>1</sup> suitable for *guard force but not direct interface*,<sup>2</sup> or not suitable for employment in the CPERS holding facility.
5. The commanding officer must reflect any subsequent change to this initial assessment on a separate risk assessment document. The Military Provost Staff warrant officer is to retain the completed risk assessment document on file at the CPERS holding facility. A copy should also be placed in the operational archives in accordance with theatre policy.

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<sup>1</sup> The internal guard force has the greatest amount of contact with CPERS.

<sup>2</sup> The external guard force has few opportunities to have contact with CPERS.

OFFICIAL SENSITIVE PERSONAL (WHEN COMPLETED)

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Notes

5A



# Chapter 6

Chapter 6 is essential reading for all UK Armed Forces involved in planning CPERS activities. It lists key planning issues and considerations, explains how CPERS activities affect operations and gives an overview of the entire CPERS handling process.

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“

As early as possible, commanders should establish planning mechanisms that ensure effective consideration of potential CPERS issues, and so develop plans and procedures to respond to them in a timely manner.

”

## Chapter 6

# Planning for captured persons activities

## Section 1 – Introduction to planning

6.1. The level of scrutiny and degree of sensitivity associated with the treatment of any type of captured persons (CPERS) means that the Joint Force Commander must have clear guidance regarding CPERS in the early stages of the planning process. The Chief of Joint Operations must refer to the Chief of the Defence Staff's Directives (including the Detention and Human Intelligence Directives) which will include guidance on legal issues, rules of engagement and CPERS activities. Chief of Joint Operations will in turn use the Chief of the Defence Staff's Directives to give operational direction in the form of the Joint Commander's Mission Directive. The Joint Force Commander can expect issues related to CPERS to be covered in more detail in the mission directive. If they are not, they will need to request additional guidance. Such guidance would be provided by the nominated Force Provost Marshal and early engagement with Provost Marshal (Army).<sup>271</sup> In conducting their own operational estimate, the Joint Force Commander should consider whether they have been allocated sufficient resources to establish a viable CPERS handling organisation on a scale consistent with wider planning assumptions.

**Commanders should be clear about the effect that CPERS activities should achieve within the overall campaign plan.**

6.2. The Joint Force Commander must then consider their own plan for dealing with CPERS within the joint operations area. The Joint Force Commander must ensure that all personnel (including personnel from other forces working with or being supported by the UK) involved in this activity are trained, equipped and otherwise logistically supported. This does not just include those running any facility, but all involved from the point of capture onwards. It also includes identifying – and by implication, correctly resourcing – the effect that they wish CPERS activities to achieve within the overall campaign

.....  
271 Chief of Joint Operations is the adviser on operational custody.

plan.<sup>272</sup> There are a variety of pertinent operational and logistic considerations including:

- the number of personnel required to conduct such operations;
- materiel support;
- medical support;
- constructing or adapting facilities;
- a logistic support plan;
- arrangements to categorise and record CPERS; and
- the subsequent detention, transfer, release and re-integration of CPERS.

As early as possible, commanders should establish planning mechanisms that ensure effective consideration of potential CPERS issues, and so develop plans and procedures to respond to them in a timely manner. The planning process needs to include all relevant staff disciplines because such issues have been shown to impact upon the operational, intelligence, logistical, engineering, medical, legal, religious, linguists/translators and information aspects of the mission.

## General planning issues

6.3. The CPERS handling organisation will assume responsibility for all aspects of CPERS activities once they have been delivered to the collection point, leaving unit and formation commanders free to conduct operations. The responsibilities of the CPERS handling organisation commander and all staff involved in CPERS activities are outlined in Chapter 4, Section 3.

6.4. Commanders must give particular consideration to the requirement to investigate serious incidents involving CPERS, for example, deaths occurring in captivity or any allegations of torture or abuse. They will need to ensure that procedures are put in place for securing the scene of an incident (it may be a crime), collecting and preserving evidence and taking statements from both our Armed Forces and local witnesses. It is vital that commanders have arrangements in place to ensure prompt involvement of the Service police at significant incidents. If authorised, commanders must also keep family members informed of the progress of investigations and set out procedures for handling the media aspects of such investigations.

.....  
<sup>272</sup> This may include activities such as psychological operations, media operations and other information activities. The lead for coordinating and synchronising such activities is J3, with advice being provided by the Force Provost Marshal, legal adviser and policy adviser.

**Commanders should seek early advice from the Force Provost Marshal and legal advisers when planning for operations involving CPERS.**

6.5. In addition to conducting a campaign, our Armed Forces may be faced with the responsibility for potentially thousands of CPERS who have to be accounted for, administered and held in captivity. In this situation, unless an effective means of managing and administering the extra burden imposed by CPERS is established, the conduct of operations will be adversely affected.

6.6. Each operation will be different depending on the nature of the conflict. Important planning issues may include, but are not limited to, the following.

- a. Ensuring the requisite standing orders are published in all units handling CPERS, covering, for example, the five prohibited techniques and the necessity for humane treatment.<sup>273</sup>
- b. The effect that CPERS activities should achieve within the overall campaign plan.
- c. Liaising with the Foreign, Commonwealth and Development Office (assessing the host nation's judicial system and, where necessary, concluding agreements with the host nation in relation to the detention or safe transfer of CPERS and on other issues as may be required).
- d. Establishing links with other government departments and non-governmental organisations to support the reconciliation and reintegration of CPERS into society and forming policies (backed by appropriate resourcing) for conducting reintegration operations while CPERS are being held by our Armed Forces. Further details can be found in Chapter 12, Sections 3 and 4.
- e. Coordination with coalition partners for all CPERS activities including, where appropriate, drafting memoranda of understanding and military technical agreements between troop contributing nations in relation to the shared use of CPERS holding facilities, intelligence sharing and the handover of CPERS.
- f. Media and press relations.<sup>274</sup>

273 See Chapter 2, Section 2.

274 See paragraph 1.53.

- g. Identifying the properly trained personnel requirement for CPERS activities, to include the provision of: commanders, provost support and scene of crime management; sufficient legal advisers to cover legal advice to commanders and to conduct all required legal duties for CPERS (including review boards); medical support; and interpreter support. A full list of key staff and their responsibilities is listed at Chapter 4, Section 3.
- h. Providing enhanced training in CPERS handling to those of our Armed Forces specifically assigned to CPERS handling tasks.
- i. Communications support for CPERS activities.
- j. Facility location and construction, including security and sanitation requirements, humane conditions of detention including culturally adapted living conditions.
- k. Ensuring CPERS receive the minimum standards and requirements as set out in Chapter 2, Section 1.
- l. Transporting CPERS, including providing food, water and medical support.
- m. Categorising CPERS.
- n. Interrogation and intelligence-gathering.
- o. Procedures and personnel required for recording and reporting details of those CPERS held or transferred, the wounded and the dead. This should include the various phases of the handling chain commencing at the point of capture. Planning for transmission of such details to the National Information Bureau and the ICRC's Central Agency<sup>275</sup> in international armed conflict as per obligations under international law.
- p. Procedures for death and burial of CPERS, including provision for arranging coroners' inquests and obtaining authority from the host nation for post mortem activity. There will be a requirement for a cold storage and transportation chain for the dead.
- q. Ensuring sufficient resources are in place to allow for family visits and religious, intellectual, physical, vocational or educational activities.

.....  
275 See Chapter 4, Section 5.

- r. Issuing clear instructions for the archiving of all CPERS-related documentation and media.
- s. Considering the effects of releasing large numbers of CPERS back into the host nation society after hostilities have ceased.
- t. Issuing clear instructions for the transfer of CPERS captured on the high seas.
- u. Issuing standard operating instructions in relation to the specific operation based upon this joint doctrine publication (JDP).<sup>276</sup>
- v. Before any deployed operation, the commanding officer must ensure that there is a clear written explanation of unit-level responsibilities for CPERS. If responsibilities are changed during operations, this should be recorded.
- w. Considering how complaints and reports about mistreatment of CPERS may be raised by Service personnel, as well as the CPERS themselves (for example, confidential telephone lines).
- x. As far as possible, ensuring information technology systems for reporting CPERS are harmonised between the different agencies (International Committee of the Red Cross (ICRC), Prisoners of War Information Bureau, etc.).
- y. Obtaining national detention time limits for CPERS from Permanent Joint Headquarters (PJHQ), which will have been set in accordance with law and policy.

6.7. Predictive analytical tools used by J3 and operational analysts, which suggest likely numbers or categories of CPERS, can be useful in giving an appreciation of the anticipated scale of such operations. They cannot be definitive, however, and the Joint Force Commander should balance the likely demands against available resources when formulating a plan, while recognising that a gross under/over estimation of required resources may have adverse consequences. The estimate process should consider CPERS activities in detail. Depending on the circumstances, CPERS issues may merit

.....  
 276 Permanent Joint Headquarters holds generic standard operating instructions for maritime and land CPERS activities.

a discrete estimate process of their own.<sup>277</sup> Subject always to operational security and current policy considerations, commanders should engage with the ICRC during planning for CPERS activities.

6.8. Operation Telic lessons identified echoed many of the issues first identified in the United States Army's study of prisoner handling operations during the Korean War. Both established enduring conclusions.

- a. CPERS activities require sufficient, qualified administrative and detention personnel.
- b. The locations of facilities should be determined in advance, taking into account terrain and water supply, while avoiding proximity to major population centres and likely areas of continuing military activity.<sup>278</sup>
- c. Positive identification of each individual CPERS and maintaining personnel records is essential.
- d. Unless English is the first language, interpreters are essential for managing and questioning CPERS. Experience has shown that the best method of using interpreters during routine in-/out-processing is to issue them with a script that they are to read to the CPERS, although this method will not be suitable on all occasions. All personnel who use interpreters should receive guidance on how best to use interpreters, and should ensure that the interpreters have been carefully briefed and understand their tasks. The potential for them to exceed, or be short of, their remit may have serious consequences for gathering intelligence and managing the CPERS, including the safety of the guard force. Interpreters may need to conceal their identity by using screens, dark glasses or face scarves.
- e. The CPERS holding facility commandant must have the authority and means, where appropriate, to apply an effective disciplinary system among CPERS.<sup>279</sup>
- f. A pre-planned and coordinated intelligence and counter-intelligence programme should be developed to provide a continuous, timely flow of intelligence information from the point of capture to the release phase.

.....  
<sup>277</sup> See Chapter 6, Section 2.

<sup>278</sup> See Chapter 6, Section 4.

<sup>279</sup> See Chapter 10, Section 4.

## Section 2 – Effects of captured persons on operations

6.9. The significance of CPERS activities in influencing the commander's plan will vary according to the type of operation undertaken, the legal powers available and the effects that they wish to create. Experience has shown that consideration of the effect requires greater analysis during non-international armed conflict activities (because the situation may be less straightforward) than during international armed conflicts where there may be greater need to maintain and cultivate the goodwill of the local population. History shows that internment, particularly if under resourced, is often unpopular in non-international armed conflicts; this is because it is perceived as a blunt, non-transparent process that is at odds with the normal rule of law practices. Far from reducing insurgencies, use of internment can exacerbate the situation and play into enemy propaganda.

**When planning an operation, commanders must take into account the potential number of CPERS and the resources required to effectively deal with them.**

6

6.10. In general, offensive operations will result in more CPERS than defensive operations; peace support operations will normally result in holding CPERS where local law enforcement authorities are inadequate or absent. In all operations, the effects of CPERS activities on our Armed Forces are:

- the number of personnel available for other tasking is reduced by the obligation to administer and care for CPERS;
- an additional burden is placed on force logistics by CPERS support requirements;
- an additional burden is placed on our transport system by the requirement to move CPERS;
- the tempo of operations can be slowed by CPERS activities;
- the commander's operational flexibility may be inhibited by the physical presence of CPERS in the joint operations area;

- improved intelligence and situational awareness through CPERS exploitation;
- additional personnel will be required for the security of CPERS; and
- an additional burden is placed on Role 1 and Role 3 medical support by CPERS support requirements.

To prevent CPERS becoming involved in insurgent or other illegal activities, our Armed Forces should make every effort to contribute to their reintegration back into society in a productive and meaningful way.<sup>280</sup> The process should involve a mechanism to identify what motivated the individual to participate in the activity which led to their capture, and provide education and rehabilitation to those who are held in captivity, if they so wish. The aim is to release them back into society as peaceful citizens with a stake in the future success of the state. Reintegration of those being held for long periods of time was conducted to a lesser degree by the UK in Iraq, and on a considerably larger scale by the United States in Iraq.

6.11. The commander's consideration of CPERS activities during the operational estimate process will take place within a number of steps.<sup>281</sup>

- a. **Step 1.** J2 staff assess and then advise J3/J5 whether the operation is likely to necessitate the capture of CPERS. In making this assessment, they will take into account a number of factors, including the:
  - o overall purpose of the operation;
  - o likely outcome of the operation;
  - o size and nature of opposing forces;
  - o enemy's likely courses of action;
  - o enemy's cultural and religious background;
  - o state of the enemy's morale; and
  - o overall progress of the campaign.

.....  
280 For the purposes of this publication, 'reintegration' is the term used to describe returning a person to their society. Reintegration spans from the point in time that a person is allowed to proceed on their way following a routine stop and question, through to releasing a person that has been held by our Armed Forces for a period of years.

281 For detailed advice on the estimate process generally, see Allied Joint Publication (AJP)-5, *Allied Joint Doctrine for Operational-level Planning* (with UK national elements).

- b. **Step 2.** If the intelligence received in response to Step 1 indicates the likelihood of the operation resulting in CPERS, this is considered under the estimate heading of other relevant factors.
- c. **Step 3.** Having considered the impact of CPERS on the plan, provision is included in the summary of possible tasks and troops allocated to the task. This will include the requirement for interpreters to support the intelligence gathering effort and to process CPERS.
- d. **Step 4.** Once the commander has selected their course of action, details of the CPERS plan are to be included in the execution paragraph of their orders. Depending on the potential impact on the operation, the need to make a specific plan may be reflected in the concept of operations. CPERS handling must always be included in the coordinating instructions of the plan.

6.12. CPERS handling and its effect on an operation will always be one of the planning challenges. Rarely will the commander be able to make a plan secure in the knowledge that its success will be guaranteed. Planning should assume a worst case scenario. Given the diffuse nature of contemporary operations, CPERS of whatever status, may be captured by any number of different units and across all environments. In operations the unplanned arrival of large numbers of CPERS into the joint operations area can provide significant challenges for the joint force.<sup>282</sup>

## Section 3 – An overview of the captured persons handling process

6.13. To assist in planning CPERS activities, this section provides a brief introduction to the different phases of the CPERS process, although more detail can be found in Chapters 7, 8 and 9. The basic principles and standards of treatment, as set out in Chapter 2, apply throughout this process. An aide memoire of the CPERS process can be found at Figure 6.1, which can be used as a template for planning CPERS activities, alongside the timeline at Figure 6.2.

.....  
 282 During the 1991 Gulf War, United States helicopter squadrons were faced with having to deal with hundreds of Iraqi prisoners of war who had surrendered when confronted by helicopters. Other Iraqi soldiers had surrendered to an unmanned aerial vehicle.

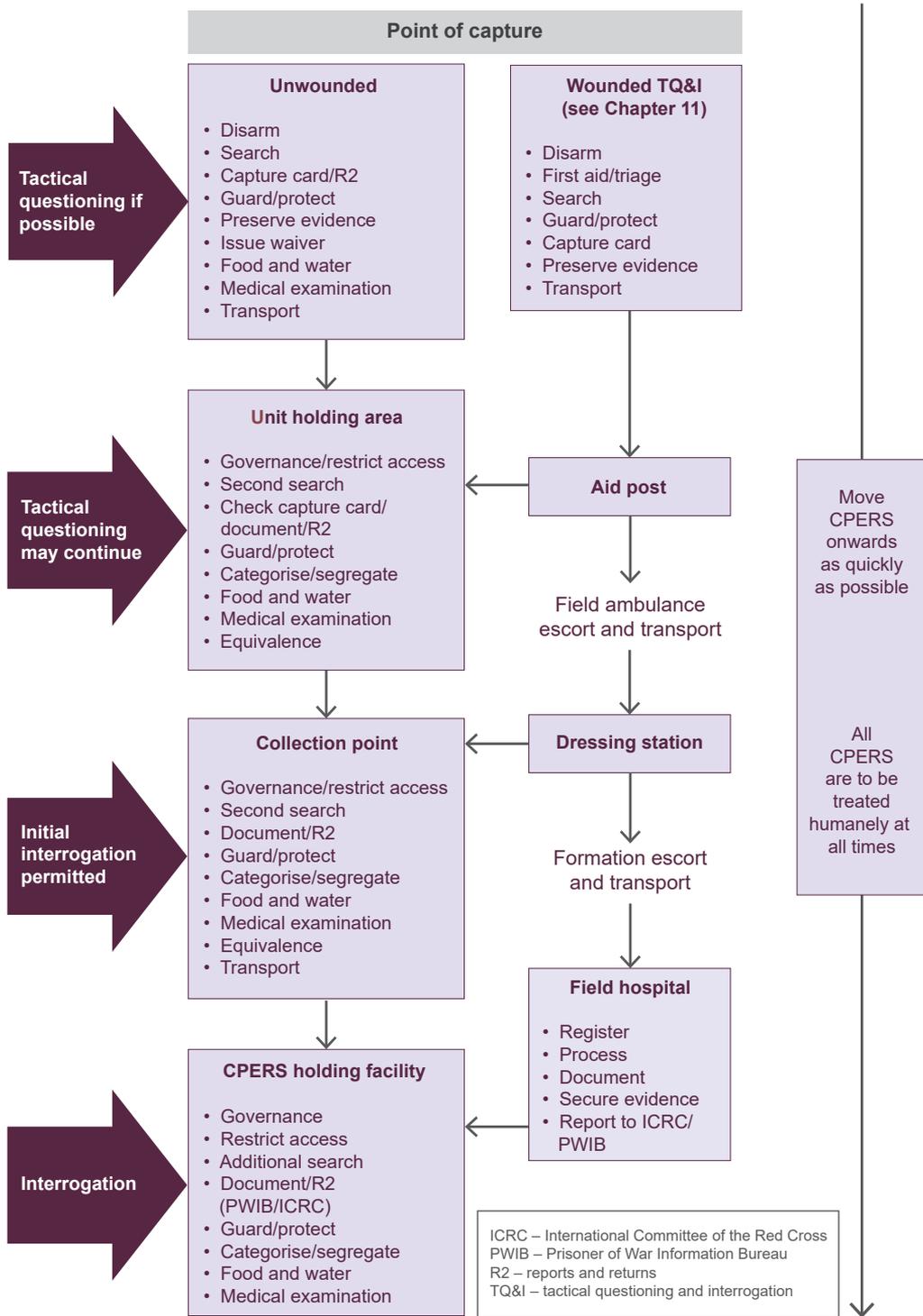


Figure 6.1 – Planning aide memoire

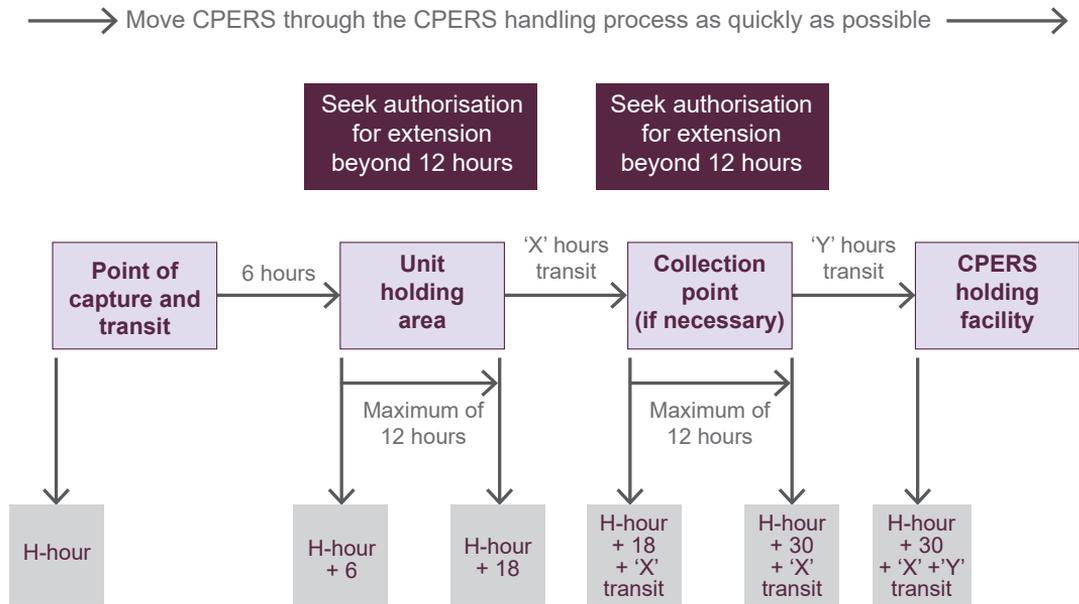


Figure 6.2 – Direction on time limits

### Time limits

6.14. Figure 6.2 sets out policy direction on time limits to be applied during the processing of all CPERS. Legal advice should be sought on up-to-date policy and legal time constraints as they may change. Time begins at point of capture (H-hour); when our Armed Forces deprive someone of their liberty that person becomes a CPERS. Due to the variable nature of operational environments, it is not possible to place a time limit on the transit between various stages of the handling process, hence the transit times are referred to as ‘X’ and ‘Y’. Every effort must be made, however, to adhere to the time limits shown in Figure 6.2. The basic principle is that CPERS are to be moved through the process as quickly and efficiently as possible;<sup>283</sup> CPERS must reach the CPERS holding facility as a matter of priority. Standard operating instructions for each operation should set out indicative timelines for CPERS handling.

CPERS are to be moved through the handling process as quickly and efficiently as possible.

283 Geneva Conventions III 1949 (GC III), Article (Art) 20 (in relation to prisoners of war).

## The point of capture

6.15. Once a CPERS has been captured, the key processes for our Armed Forces at the 'point of capture' are to disarm, search and document that individual, paying particular attention to the retention of any items of intelligence or evidential value. In addition, an initial medical examination should be conducted within four hours of capture unless the medical condition of the CPERS requires immediate attention. Full details of the point of capture procedures can be found in Chapter 7. The capturing unit are to process CPERS through the CPERS handling chain as soon as practicable; they should move CPERS to the unit holding area within six hours from the point of capture.

## The unit holding area



Temporary CPERS holding facility during Operation Telic 1

6.16. The unit holding area may be a temporary facility and is the first point in the CPERS handling chain where detailed documentation of CPERS may begin. Notwithstanding the temporary nature of the unit holding area, it must afford the minimum standards listed in Chapter 2, Section 1. Full details of the unit holding area can be found in Chapter 9. It should only hold CPERS for the minimum time necessary; the maximum time to move CPERS out of the unit holding area is within 12 hours of arrival. Extensions to the 12 hour period must be authorised by the detention chain of command (and ultimately the

Detention Authority). The maximum time limit of 12 hours at the unit holding area will not include the transit time required to take the CPERS from the unit holding area to the collection point or directly to the CPERS holding facility. This transit time is depicted on the aide memoire as X hours.<sup>284</sup>

6.17. If tactical questioning was not possible at the point of capture it may take place at the unit holding area. Movement through the CPERS handling chain, however, should not be delayed pending the arrival of a tactical questioner. The tactical questioner will decide whether CPERS should be released, proceed to interrogation, or be processed into the CPERS holding facility as a member its population. In the absence of a tactical questioner

.....  
284 In the maritime environment, it is more likely that these timelines will not be achievable. If it is anticipated that CPERS will be required to spend more than 24 hours embarked, the commanding officer of the unit is to seek in-theatre legal advice.

this decision may be taken by the unit. For detailed guidance on tactical questioning see Chapter 11, Section 2.

## The collection point

6.18. Dependent upon geography, the tactical situation and environmental factors, it may be necessary to establish a 'collection point' in the evacuation chain. Established primarily for managing CPERS captured in significant numbers, collection points are temporary in nature and usually established at formation level to provide a central facility to ease transport to the CPERS holding facility. Interrogation may take place at the collection point. Details on interrogation procedures are outlined in Chapter 11. The decision to establish a collection point at a particular formation level will be taken by the Joint Task Force Headquarters.

6.19. CPERS should not be held in the collection point for longer than 12 hours after arrival. This 12 hour period will not include the transit time from the unit holding area to the collection point (which is depicted on the aide memoire as X hours) nor will it include the transit time required to take the CPERS from the collection point to the CPERS holding facility (which is depicted on the aide memoire as Y hours).

6.20. The construction and the facilities of the collection point together with the operational situation will dictate the maximum length of time CPERS should remain in the collection point. Should there be a requirement to remain at the collection point for longer than 12 hours, staff at the collection point will need to seek authorisation from the detention chain of command (ultimately the Detention Authority). Guidance on collection points is at Chapter 9.

## The captured persons holding facility

6.21. For the purpose of this publication, a CPERS holding facility is defined as: a facility which is of an established nature and designed to hold larger numbers of captured persons for extended periods of time. Note: It does not include unit holding areas or collection points.<sup>285</sup> Details of the running, staffing and management of a CPERS holding facility are detailed at Chapter 10. Our Armed Forces must make every effort to ensure that CPERS arrive at the CPERS holding facility no later than H-hour + 30 hours + transit time (X + Y) after point of capture.

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285 Joint Doctrine Publication (JDP) 0-01.1, *UK Terminology Supplement to NATO Term.*

## Intelligence exploitation facility

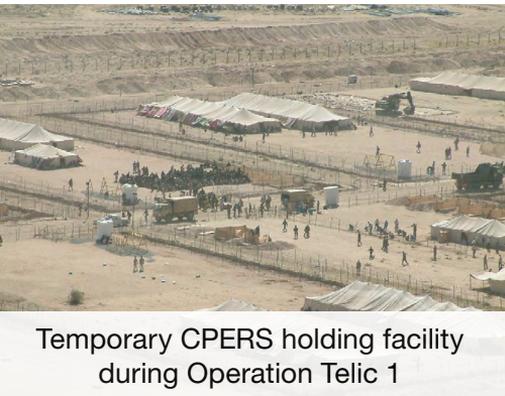
6.22. The intelligence exploitation facility is an operational multi-source fusion and single-source processing capability that enables the exploitation of materiel and personnel to provide actionable operational intelligence. This can be a stand-alone facility, or collocated within the boundary of a CPERS holding facility. Irrespective of this, it will have its own separate and distinct chain of command as detailed in both Chapter 10, Section 1 and Chapter 11, Section 3.

## Section 4 – Planning a captured persons holding facility

6.23. Depending on the nature of the campaign, a CPERS holding facility may be temporary (for example, tented), based on existing buildings, or purpose built. Typically, temporary CPERS holding facilities will be less sophisticated and less secure. In the case of temporary CPERS holding facilities, or of those based on existing buildings, the aim must be to increase levels of security and upgrade infrastructure as soon as possible as this will release personnel from guarding and administrative tasks inevitably associated with temporary facilities.<sup>286</sup> In

the case of purpose-built CPERS holding facilities, the aim must be to design security systems that reduce the need for guarding and administrative personnel while also meeting the minimum standards for humane treatment as set out in Chapter 2. Principles of design are set out below, and commanders should seek advice on all aspects of purpose-built CPERS holding facility designs from the Provost Marshal (Army). Provost Marshal (Army) may decide to deploy members of the custodial branch to theatre to facilitate a CPERS holding facility achieving initial, and full, operating capability.

6



Temporary CPERS holding facility during Operation Telic 1

6.24. Decisions made about the location of the CPERS holding facility will be amongst the most significant in establishing the CPERS handling process. If all the relevant factors concerning the location of a CPERS holding facility are not properly taken into account, unnecessary administrative and logistic burdens may be imposed on the force. In the worst case, large numbers of CPERS may have to be relocated at a critical point in the operation or campaign. The CPERS holding facility must be sited in a location away from immediate danger with access to a main supply route. An exception to this rule would be where a policy decision is taken involving the location of a CPERS holding facility for .....

<sup>286</sup> An outline establishment for a CPERS holding facility is at Annex 6A.

prisoners of war alone, in the territory of a friendly neighbouring state. Internees or detainees may not be removed from their territory.<sup>287</sup>

Planning factors for a CPERS holding facility	
The Geneva Convention states that CPERS establishments are only allowed to be sited on land. <sup>288</sup>	The threat of guerrilla or enemy activity and the general attitudes of the different groups that make up the CPERS population. <sup>289</sup>
Once a large camp is built, it becomes inherently difficult and burdensome on the logistic chain to relocate.	The existence of an adequate water supply sufficient to meet the needs of the facility for drinking, washing and sewage disposal.
The training required for the commandant and guard force. Details for training are in Chapter 5, and details for governance and responsibilities in Chapter 4.	The potential to make use of existing real estate to reduce the logistic burden. When considering options, allowance should be made for legacy issues connected with any real estate. <sup>290</sup>
The attitude of the local population.	Proximity to potential target areas.
Influence of the terrain on construction, access and security (to include previous military activity in that area, for example, unexploded explosive ordnance).	Proximity to existing infrastructure such as road, rail or airhead.
The local availability of construction materials.	The availability locally of a suitable electrical power supply.
To minimise the requirement for the use of blacked-out goggles, blindfolds and ear defenders, CPERS facilities should ideally be designed and constructed to be secure and separate from (or screened from) other military activities.	Ground features such as marshes or swamps, which might bring about conditions adversely affecting the health of CPERS and our Armed Forces collocated.  Any environmental, contamination and climatic considerations.

287 GC III, Art 49.

288 GC III, Art 22. Some states practice and opinion differs and includes reaching agreement between the parties because of the particular nature or environment of the conflict.

289 Experience from Iraq has shown that some CPERS continue the fight 'behind the wire'. The threat may vary depending on the categorisation of the CPERS and is not surprising, certainly for prisoners of war. This manifested itself by CPERS mass-producing home-made weapons and digging tunnels – not to escape – but to emerge near to armed guard towers so that they may overpower guards and take weapons to instigate a major uprising within the facility.

290 For example, the *Abu Ghraib* prison in Iraq was known under the Saddam Hussein regime as 'torture central'; its use under the regime that replaced it was always likely to carry presentational risk.

## Design of a captured persons holding facility

6.25. Design of effective CPERS holding facilities balances security and systems that will minimise personnel levels. In cases where the standards do not conform to those specified, measures must be taken to reach those standards as soon as possible. Paragraphs 6.26-6.45 detail the requirements that commanders must consider when designing a CPERS holding facility. Examples of the layout of 250, 500 and 2000 CPERS holding facilities are at Annex 6A.

6.26. **Captured persons accommodation.** CPERS accommodation, and in particular all sleeping accommodation, must meet good health requirements such as climatic conditions and fresh air, minimum floor space, natural and artificial lighting, heating and ventilation.<sup>291</sup> Medical/environmental health staff will provide advice in this area.<sup>292</sup>

6.27. **Segregation.** The facility must include adequate accommodation to ensure the requisite segregation of CPERS. For example, key leaders, those posing a high-security risk and vulnerable groups including women and children must be separated from other CPERS where appropriate. Where nursing infants are allowed to remain in the facility with their mothers, the facility should include a nursery staffed by qualified persons, where the infants can be placed when they are not in the care of their mothers.<sup>293</sup> Care should be taken that segregation does not become solitary confinement, see Chapter 7, Section 5.

6.28. **Ablutions.** The sanitary installations must be culturally appropriate in terms of privacy, maintained in working order and available for CPERS to use at any time during the day and the night. The facility must include separate toilet facilities for the exclusive use of female CPERS. The facility must include adequate bathing and shower installations so that every CPERS may bathe or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region.

6.29. **Waste disposal system.** An important aspect of the construction and management of CPERS facilities is the requirement for an efficient waste

.....  
291 Experience has shown that a four-compound (2000 CPERS) holding facility is the maximum size of any one enclosure. If it is assessed that the holding requirement is likely to exceed this figure, further enclosures will need to be established. A balance has to be struck in siting additional compounds between the requirement to prevent communication between enclosures and the administrative efficiency derived from collocation.

292 See Chapter 3.

293 Additional Protocol I 1977 (AP I), Art 76; Additional Protocol II 1977 (AP II), Art 5.

disposal system. Our Armed Forces should not underestimate the volume of waste produced by a large CPERS facility and they should make disposal plans accordingly.

a. **Human waste.** At the outset of construction, the facility must include a system for disposing of human waste from latrines in compounds and enclosures. For anything other than the basic collection point, the deep trench latrine will not suffice and the facility must provide a more effective form of latrine. Depending on the resources available, this will range from a simple chemical toilet to a fully-fledged disposal system equipped with flushing lavatories and connected to either a local sewage system or to cesspits. Failure to make provision for the disposal of human waste will almost inevitably lead to the rapid spread of disease amongst CPERS, and others.

b. **Other waste.** Our Armed Forces must ensure that arrangements are made for the collection and disposal of other waste. The amount of waste generated in a 2000 CPERS holding facility each day will be considerable and unless an organised system of rubbish collection and disposal is set up from the first occupation of the facility, environmental and health problems will quickly follow.

c. **Waste collection.** The Geneva Conventions allow the use of CPERS who are prisoners of war for tasks connected with camp maintenance.<sup>294</sup> The operation of sewage systems and waste disposal are tasks that fall within this category provided that CPERS employed on them are trained and given protective equipment and clothing.<sup>295</sup>

6.30. **Laundry.** The facility must include the equipment and space to enable CPERS to launder their personal clothing. In accordance with local or national standards, our Armed Forces must provide each CPERS with a separate bed, as well as separate and sufficient clean bedding.

6.31. **Ventilation and access to natural light.** In all places where CPERS are required to live or work there must be windows that are large enough to enable CPERS to read or work by natural light. The windows should be constructed to allow the inflow of fresh air, whether or not there is artificial ventilation and artificial light sufficient for CPERS to read or work without injury to eyesight.

.....  
294 GC III, Art 50.

295 GC III, Art 51.

6.32. **Exercise.** The facility must include an area available for all CPERS to take daily exercise in the open air, where possible, with appropriate shelter for when the weather is extreme or to provide shade. Such exercise areas may be made more secure by enclosing them with welded mesh over the top. Additionally, the area should include space, installations and equipment to allow children and juvenile CPERS, and others of suitable age and physique, to receive physical and recreational training.

6.33. **Security.** Internal and external security considerations include secure cells, compounds, a perimeter fence and protection from any threat of incoming fires. Modern technology raises new security issues, both threats and safeguards that must be considered, such as the use of nanotechnology, drones, tannoy announcements, recorded messages, body cameras, infrared cameras, long-term digital recording and electronic-controlled access points. Guard towers are to be sited around the perimeter of each enclosure and be:

- of sufficient height to permit unobstructed observation of the section of perimeter which they are sited to cover;
- placed immediately outside the perimeter (where the perimeter is a double fence, sited in such a manner as to allow an unrestricted view of the lane between the fences);
- low enough to allow an adequate field of fire;
- spaced to provide optimum observation (in conditions of poor visibility, extra guard posts may have to be established between towers outside the outer perimeter fence);
- of sufficient size to allow the mounting of crew-served automatic weapons;
- afforded protection from missiles thrown by CPERS; and
- fitted with secure suitable ladders.

6.34. **Vehicular access.** The facility design is to incorporate vehicular access, including full vehicular access to the inside of the compound and to the perimeter fence along its complete length.

6.35. **Generators.** Generators (including stand-by equipment) and lighting sets are to be provided to enable the following lighting requirements to be met.

- Sufficient lighting of fences or walls to enable the detection of CPERS attempting to escape at night.

- Sufficient lighting at strategic points within the CPERS holding facility to enable security to be maintained at night within the compound.
- All lighting to be shaded so that tower and other perimeter guards are not dazzled.

6.36. **Communications.** Communications are to be established between perimeter towers and other guard posts and the compound headquarters or operations centre. A secondary means of communication must also be put in place.

6.37. **Fire prevention.** Firefighting equipment must be provided in all CPERS holding facilities to the same standard as that allocated to UK personnel accommodated in similar conditions. Where piped water is not readily available, the facility should include emergency water supply tanks or reservoirs constructed close to the CPERS compound or enclosure.

6.38. **Family visits.** Family visits are important for humane treatment and can have a positive impact on the CPERS population. However, experience has shown that a family visit programme has many logistical, human resources and security implications (including swapping roles to escape) that need to be included in the early planning stages. The location of the family visitation area is crucial in terms of security; its management will require staff who are aware of the cultural environment, and female staff members to search female family members. Families will often come with parcels for their CPERS relatives and accepting, screening and handling such parcels can be resource-intensive. Consideration should also be given to alternative technological means for maintaining family contact (for example, providing telephone/video calls). Specific guidance on the operational policy will need to be provided.

6.39. **Other areas.** Other areas in a CPERS facility include:

- an area for purposeful and reintegration activities;
- kitchen, food storage and messing facilities; and
- a suitable area for visits.

6.40. **On-site facilities.** On-site facilities should include:

- a discrete area for a collocated intelligence exploitation facility;
- an enclosure command post and administration office;
- a medical centre;

- a facility for storing and issuing clothing and equipment;
- a facility for conducting religious services;
- providing information technology support, including CPERS reporting software; and
- a place where the CPERS may confer with the ICRC, representative of the protecting power or assisting officer.

The Force Provost Marshal will provide advice regarding the design and construction of a CPERS facility. In addition the International Committee of the Red Cross may also be contacted to provide relevant advice.

6.41. **Protective marking.** Geneva Convention III and Geneva Convention IV grant protected status to prisoner of war and internee facilities respectively. Roofs and walls of CPERS holding facilities should, wherever possible, be clearly marked with the letters 'PW' or 'PG' (Prisonnier de Guerre) so as to be visible from both ground and air. Internment CPERS holding facilities are to be marked 'IC' in a similar way. Guidance should be sought from PJHQ on some form of similar marking for other CPERS holding facilities.

## Security

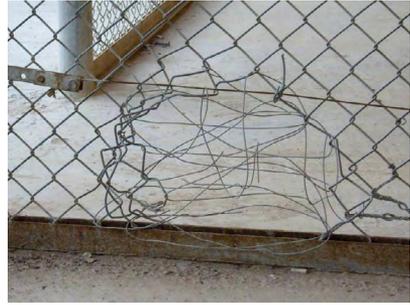
6.42. To prevent CPERS escaping, security must be of the highest standard without being unnecessarily oppressive. Experience has shown that exacting specifications and constant monitoring are required to avoid sub-contractors delivering sub-standard measures. It is recommended that only UK standard security items (such as padlocks, cell doors and windows) that have been tested and proven suitable are used throughout. Examples of good security design include the following.



a. Ensuring that the bases of all fences are embedded in a concrete ring beam that is sunk at least one foot into the ground. Engineer advice will be needed to take into account local conditions. The image opposite shows a welded mesh fence, fixed to the inside of posts and sunk into a concrete ring beam.

b. Fixing fence panelling to the inside of all supporting and strengthening posts to avoid providing climbing points.

c. Only using welded mesh fencing and never chain-link. A chain-link fence can be easily snapped or cut through, after which it can be quickly ‘unzipped’ to create gaps large enough to climb through.<sup>296</sup> The image opposite shows a chain-link fence that was cut, started to be unzipped and was then inadequately repaired by local contractors.



d. Covering security lighting in stand-off mesh so that it cannot be smashed by missiles thrown by CPERS, such as stones during disturbances.

e. Completely covering exercise areas and accommodation compounds in welded mesh fencing, so that CPERS cannot climb out. The image to the right shows a well-constructed exercise compound. It is fully encased in welded mesh fencing and has a concrete base to prevent tunnelling.



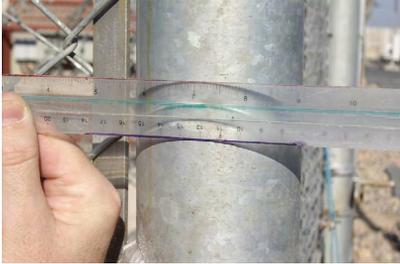
f. Using suited padlocks; each compound must have same-suited locks for all cell accommodation within it, but no two compounds should have cell locks that are suited the same.<sup>297</sup> To avoid key compromise, compound and external security gates are not to be on the same suiting as cell accommodation.

g. Ensuring that cells and compounds are constructed with suitable materials that will prevent escape, such as concrete reinforced with metal bars. This should include the floors and ceilings. An example of a poorly constructed gate is shown in the image to the right. The wire above the gate could be easily prised apart; the fencing part should be extended to the top and welded mesh used.



.....  
 296 Chain-link fences were broken through and unzipped by CPERS during public order disturbances at a UK facility in Iraq. It is known that United States’ CPERS in Iraq constructed home-made ‘fence poppers’; a device designed to quickly snap through chain-link fences, for use during pre-planned disturbances.

297 Suited locks (a number of locks that operate from one key) ensure fast and safe reaction in the event of fire, disturbance or other emergency and is the methodology used in Her Majesty’s Prisons.



h. Using fence posts that are adequate to the task and that are robust enough not to be snapped or pushed over along the fence line if a mass of CPERS working together should attempt to do so during a disturbance. An example of an adequate fence post is shown in the image to the right.

6.43. The Military Provost Staff must carry out a 'cell destruction' test prior to a CPERS holding facility being licensed and declared at full operating capability. The purpose of this test is to check that the security fittings and design of a cell is sufficient to prevent an attempted escape within 30 minutes of the attempt beginning. The Military Provost Staff should choose a cell at random and conduct the test using items that a CPERS may reasonably have in their possession.

### Building in systems that will minimise personnel levels

6.44. Systems can be built into the design of a facility to safely and securely manage the CPERS while reducing the level of personnel. As a general rule, the less that staff have to break security to gain access to CPERS, the more safe and secure it will be for the staff. This has to be balanced, however, against the need for security staff to properly interact with CPERS. Poor design or using inadequate-to-task materials will require increased personnel, increase the risk of attack on staff and increase the risk of escape.

6.45. Examples of personnel-saving design include the following.

- a. **In-cell sanitation.** CPERS do not have to leave their cell to use the toilet.
- b. **Integral exercise and recreation areas.** Allowing CPERS constant access to exercise and recreation areas reduces the time needed to transit them to and from these areas while providing the health benefits of the open air.
- c. **Visit halls.** Visit halls that have safe, secure podiums providing staff with good visibility over all areas and all aspects of the visits. Separate exit points from visit halls to toilet facilities for CPERS and visitors reduces the opportunities for passing prohibited items.

## Staffing requirements

6.46. Core responsibilities of key personnel have been covered in Chapter 4, Section 3. While the exact staffing requirements of a CPERS holding facility will vary, guidance is provided at Annex 6A. In addition, the commandant should consider using the following staff.

- a. **Custodial specialists.** A CPERS holding facility requires custodial specialists to advise the commandant on CPERS handling. In the case of the UK land component, Military Provost Staff are to be used, or in the absence of Military Provost Staff, the Royal Military Police, under the direction of the Force Provost Marshal.<sup>298</sup> In the case of the maritime or air components, where Military Provost Staff are not available, individuals trained by the Military Provost Staff are to be used.
- b. **Guard force.** The size of the guard force will vary depending upon the size and location of the CPERS holding facility, as set out in Annex 6B.
- c. **Medical staff.** The CPERS holding facility should provide sufficient medical staff to provide the minimum acceptable standard of medical treatment to all CPERS. Details of medical support to CPERS are set out in Chapter 3.
- d. **Staff to administer documentation.** Sufficient administrative staff will be needed to meet any requirements of the Geneva Conventions and UK policy. The CPERS registration unit will manage all CPERS documentation as detailed in Chapter 10, Section 6. Information management and the administration of documentation are J1 functions and not those of the Military Provost Staff.
- e. **Legal adviser.**<sup>299</sup> Ongoing legal advice and legal adviser involvement is crucial to the effective running of a CPERS facility, although it may not be practical to have legal staff permanently based at the facility. The legal adviser and J1 staffs will be essential to the conduct of Article 5 and detention review proceedings (see Chapter 1), as well as providing advice on the legality of all aspects of CPERS.

298 The Military Provost Staff are the Defence subject matter experts in CPERS handling practice.

299 See JDP 3-46, *Legal Support to Joint Operations*, 3rd Edition.

## Documentation and processing

6.47. The importance of ensuring accurate information management (documentation, record keeping, information collection and processing and appropriate communication of that information) throughout the CPERS handling process cannot be over-emphasised. Similarly, associated materiel seized must also be accurately documented, correctly handled and accounted for. Timely, accurate documentation is central to the efficient administration of CPERS and is also essential to both fulfil the requirements of the Geneva Conventions and to prevent administrative burdens compromising operational effectiveness. It is also vital that continuity of evidence handling and record keeping is maintained to assist the intelligence gathering process, or any type of investigation including criminal investigation and subsequent prosecution. It will also assist in ensuring the proper care of CPERS and the ability to refute any potential allegations and later claims of improper treatment.

6.48. The planning process must therefore take account of the requirements for the documentation and processing of CPERS. Theatre information instructions will be issued for each operation and must be promulgated as early as possible. Planning must ensure adequate provision for the documentation of CPERS at all stages of the CPERS process, from point of capture to release or transfer. Commanders should identify sufficient personnel and logistics resources for each stage of the CPERS handling process as early as possible in the planning of the operation.

## Section 5 – Planning for adverse incidents affecting captured persons

6.49. For all CPERS activities, the theatre chain-of-command must ensure that procedures, orders and contingency plans are in place and effective in the event of adverse incidents such as:

- flood, fire;
- escape;
- direct and indirect fire attack;
- abuse of CPERS;

- hostage taking;
- death of CPERS;
- public order disturbance;<sup>300</sup>
- evacuation of CPERS holding facility;
- break in by a 'rescue/liberating' force;
- hunger strikes or refusal of medication;
- self-harm; or
- attacks on others, including detention staff.

A summary of basic actions to follow whenever there is an adverse incident involving CPERS is at Annex 13B.

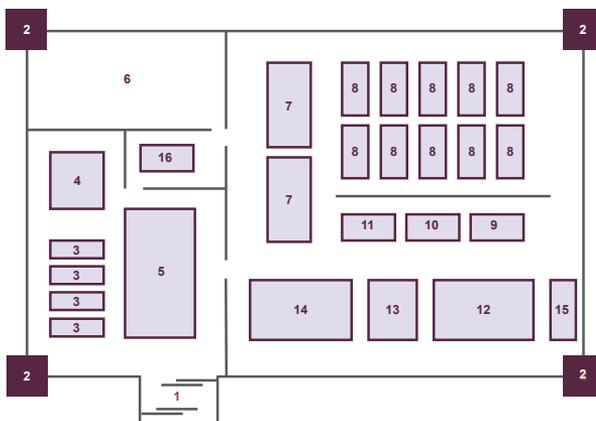
.....  
 300 Consideration of riot control agents, kit and training is required.

Notes

Annex 6A

# Planning a captured persons holding facility

Example of a 250 person captured persons (detainee) holding facility<sup>301</sup>

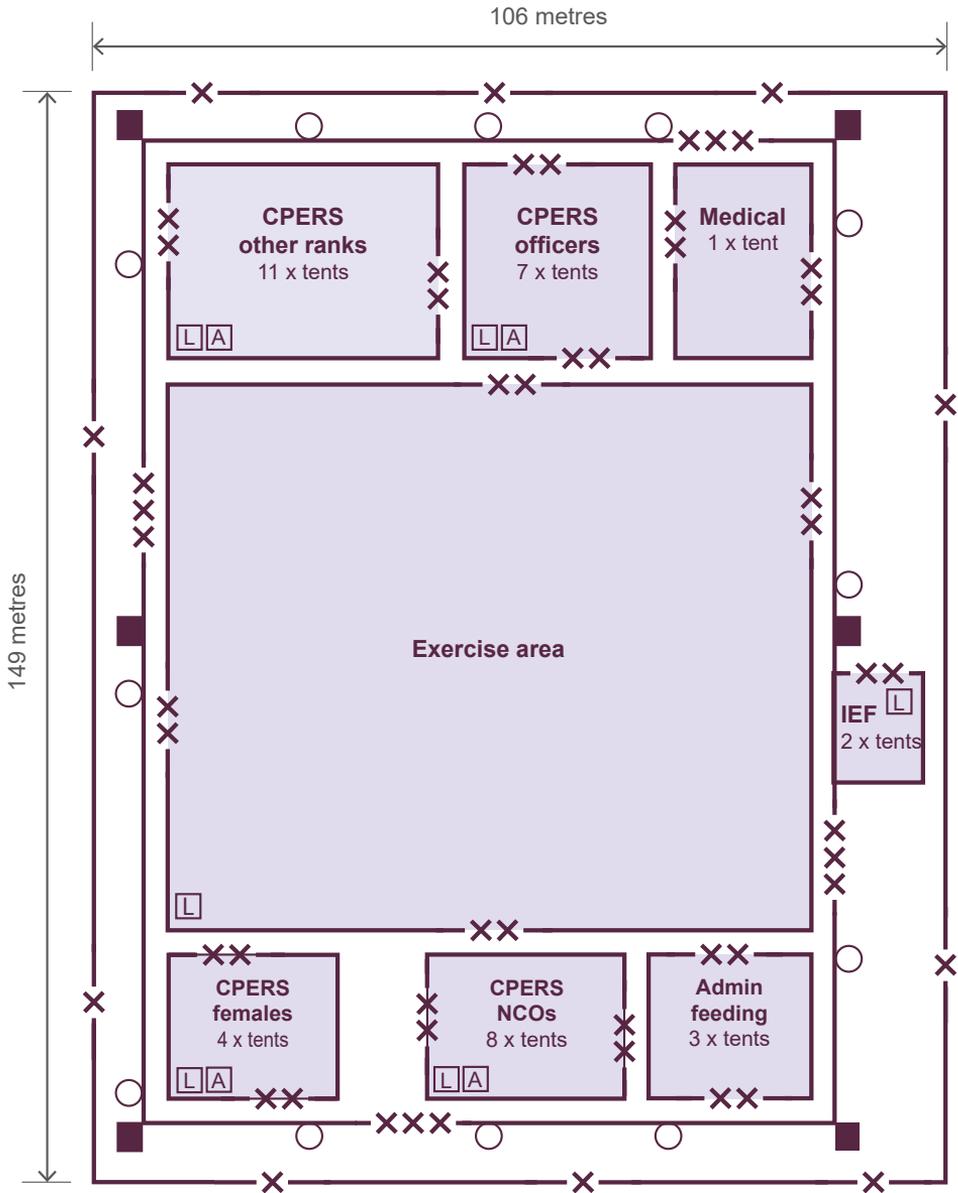


6A

1	Air lock gate	
2	Guard towers	
3	Staff offices	
4	Initial centre processing – captured persons (CPERS) registration unit	
5	Vehicle car parks	
6	Staff accommodation	
7	Exercise areas (it is recommended that whenever possible exercise areas should be accessible with entrances directly from the cell area or areas)	
8	General quarters – each block holds a maximum of 25 CPERS (All CPERS quarters, namely accommodation, must provide sanitary facilities for the CPERS. Routine access is essential.)	
9	Segregated quarters	
10	Segregated quarters	May be used for families, women, juveniles, children or vulnerable CPERS
11	Segregated quarters	
12	J4 departments	May include stores, kitchens, etc.
13	J4 departments	
14	Vehicle car park	
15	Medical facility (this should include vehicle access for delivery of goods and ambulances)	
16	Visits hall	

<sup>301</sup> Not to scale. Engage with medics for accessibility, privacy, confidentiality and security requirements of medical facility.

### Example of a 500 person captured persons (prisoner of war) holding facility



**Camp headquarters and staff lines**

- Staff accommodation – 17 x tents (12 feet x 24 feet)
- Medical centre – 1 x tent
- Cook house – 1 x tent
- Latrines and ablutions
- Visits – 2 x tents

**Notes:**

- IEF includes waiting area
- Tents are 18 feet x 24 feet unless stated

IEF intelligence exploitation facility

NCOs non-commissioned officers

Security lighting

Ablutions

Latrines

Guard tower

Fence

Type 1 wire fence

Highwire fence (with single strand 0.3 metres off ground 2 metres inside)



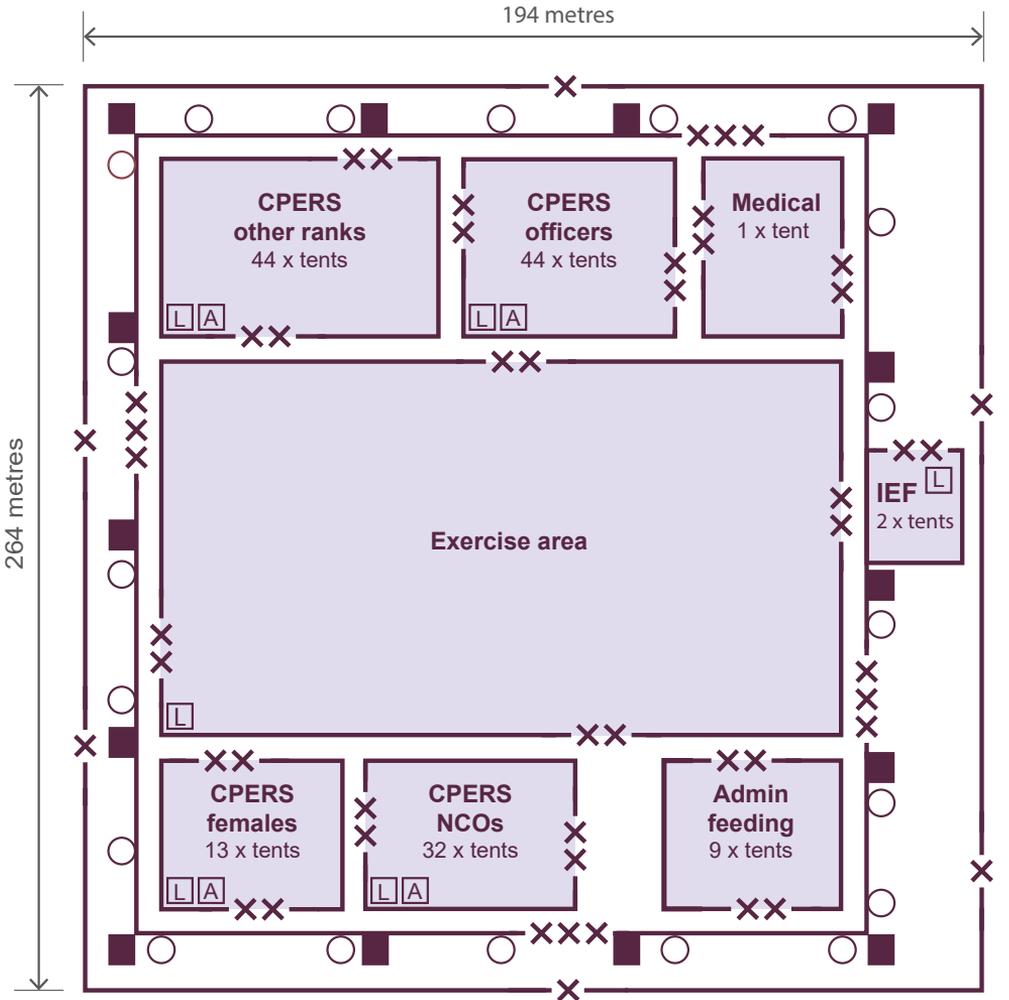
6A

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### Notes for 500 person captured persons (prisoner of war) holding facility

1. Medical centre includes dental facilities. (Shown as prisoner of war holding facility; adapt role of compounds appropriately for other CPERS where, for example, no segregation is necessary between other ranks and officers.)
2. Exercise areas – it is recommended that whenever possible exercise areas should be accessible with entrances directly from the cell area or areas. Facilitating CPERS exercise can be personnel intensive, therefore, where possible, exercise areas should be attached to detainee quarters. Where this is not possible CPERS should have access to the outdoors within their quarters. A secure location must also be identified for purposeful activity (education, and so on).
3. General quarters – all CPERS quarters, namely accommodation, must provide sanitary facilities for the CPERS. Routine access is essential.
4. Segregated quarters – may be used for families, women, juveniles, children, vulnerable CPERS, religious and ethnic groups.
5. Medical facility – this should include vehicle access for delivery of goods and ambulances.

## Example of a 2000 person captured persons (prisoners of war) holding facility



6A

### Camp headquarters and staff lines

Staff accommodation – 17 x tents (12 feet x 24 feet)  
 Medical centre – 1 x tent  
 Cook house – 1 x tent  
 Latrines and ablutions  
 Visits – 4 x tents

### Notes:

- IEF includes waiting area
- Tents are 18 feet x 24 feet unless stated

IEF intelligence exploitation facility

NCOs non-commissioned officers

Security lighting

Ablutions

Latrines

Guard tower

Fence

Type 1 wire fence

Highwire fence (with single strand 0.3 metres off ground 2 metres inside)



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### Notes for 2000 person captured persons (prisoner of war) holding facility

1. Medical centre includes dental facilities. (Shown as prisoner of war holding facility; adapt role of compounds appropriately for other CPERS.)
2. Exercise areas – it is recommended that whenever possible exercise areas should be accessible with entrances directly from the cell area(s).
3. Facilitating CPERS exercise can be personnel intensive, therefore where possible exercise areas should be attached to detainee quarters. Where this is not possible, CPERS should have access to the outdoors within their quarters. A secure location must also be identified for purposeful activity (education, and so on).
4. General quarters – all CPERS quarters, namely accommodation, must provide sanitary facilities for the CPERS. Routine access is essential.
5. Segregated quarters – may be used for non-compliant CPERS, families, women, juveniles, children, vulnerable CPERS, religious and ethnic groups.
6. Medical facility – this should include vehicle access for delivery of goods and ambulances.

## Outline establishment for management and administrative staff for a captured persons holding facility

Serial	Post	Rank	No for 250 CPERS	No for 500 CPERS	No for 2000 CPERS	Remarks
1	Commandant/CO	Maj/Lt Col	1	1	1	
2	Second in Command	Capt/Maj	1	1	1	
3	Adjutant	Lt/Capt	1	1	1	
4	Chief Clerk	WO2/SSgt	1	1	1	
5	Assistant Chief Clerk	Sgt/Cpl	1	1	1	
6	Clerks	Pts/Cpl	2	4	10	
7	Custodial Staff <sup>302</sup>	WO2/Sgt	12	24	30	MPS and/or Service police
8	WO i/c kitchen	WO2/SSgt	1	1	1	
9	Chef Sgt	Sgt	1	1	1	
10	Chefs	Pte/L Cpl	3	7	15	Augmented by CPERS
11	RAO/AGC Det Comd	Lt/Capt	0	0	1	
12	FSA	SSgt	0	0	1	
13	Pay Sgt	Sgt	0	1	2	
14	Pay Cpl	Cpl	0	1	5	
15	QM	S/Sgt	1	1	1*	*Lt/Capt
16	QM staff	Pte/L Cpl	2	4		
17	RQMS	WO2	0	0	1	

302 Military police personnel (Military Provost Staff supported by Royal Military Police) must be used as custodial staff. Headquarters Provost Marshal (Army) must be included during the planning phase.

Serial	Post	Rank	No for 250 CPERS	No for 500 CPERS	No for 2000 CPERS	Remarks
18	Medical officer	Capt/Maj	1	1	1*	*Maj/Lt Col In peak through put and high occupancy periods may require augmentation with further medical officer and/or primary care nursing staff
19	NCO i/c Med Centre	Sgt	1	1	1*	*WO2
20	Medical Centre staff	Pte/L Cpl	1	2	5	Replaced/augmented by CPERS
21	NCO i/c RE Maintenance Team	Cpl	1	1	1	Maintenance and running of compound
22	RE Maintenance Team	Spr/L Cpl	2	4	8	
23	MT NCO	Cpl	1	1	1*	*Sgt
24	MT drivers	Pte	2	5	8	
25	Interpreters		6	9	16	24/7 cover required

**Note:** There is a requirement for Service legal adviser support and visits to CPERS holding facility. This establishment list uses Army ranks. All posts can be filled by the equivalent Royal Navy or Royal Air Force personnel.

\*Denotes a higher rank required for the 2000 CPERS holding facility.

Notes

6A

## Annex 6B

# Captured persons holding facility guard force

6B.1. **Role.** The role of the guard is to protect and prevent captured persons (CPERS) escaping from a CPERS holding facility and to maintain discipline within it. Guards will also have a subsidiary role in the day-to-day administration of the CPERS holding facility. Military Provost Staff, who may be supported by the Royal Military Police, will normally provide custodial staff to assist the guard force and provide an interface between the CPERS and the internal guard force.

6B.2. **Providing the guard force.** The guard force at a holding area or CPERS holding facility is, where possible, to be found from all or part of a formed unit or units, designated at the outset of operations by J3 at Joint Task Force Headquarters and placed under command of the CPERS handling organisation commander. The designated unit or units should have no other task apart from providing guards for CPERS facilities and must be trained for the task.

6B.3. **The size of the guard force.** The ratio of guards to CPERS is to be one company sized sub-unit to each 500 person compound (approximately 1:5 ratio). This provides for one platoon sized guard force (approximately 30 personnel) to be on duty at any one time.

6B.4. **Organisation of the guard force.** The guard force is composed of four elements.

- a. **External guards.** External guards secure the perimeter of the facility by manning guard towers and gate posts. Their main role is to ensure that CPERS remain confined inside the facility but they also have the subsidiary role of protecting the facility against attack or attempts to infiltrate the area from outside.
- b. **Internal guards.** Internal guards maintain segregation and order within the facility and restrict access to areas where the possibility of

escape may exist, such as buildings sited close to the perimeter of the compound.

c. **Roving sentries.** Roving sentries, operating in pairs, carry out random patrols within the perimeter of the compound.

d. **Quick reaction force.** The quick reaction force is the reserve force for the facility and will normally be found from off-duty members of the guard force. Tasks of the quick reaction force include:

- o reinforcing the external and internal guards where necessary;
- o defending the perimeter against outside attack;
- o pursuing and re-capturing escaped CPERS in the immediate area of the facility; and
- o resolving any internal breakdown of CPERS discipline.

6B.5. **Military working dogs.** Wherever possible, the guard force is to be augmented with dogs and their handlers. The dogs should include at least one tracker dog. Deploying and using dogs is to be at the discretion of the CPERS holding facility commandant bearing in mind both the threat posed by the CPERS and the impact of using dogs on some religious and cultural groupings.

6B.6. **Resources.** The resources available to the guard force must be considered carefully with advice from the subject matter experts, particularly the Force Provost Marshal and legal adviser, and will vary depending on their role. The ability to communicate between the guard force and the CPERS themselves, using a tannoy system, will be important. The issue of weapons, stun guns/taser, tear gas, sound and water tools and using modern technology, such as drones that can transmit and record images will have to be the subject of specific advice.

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Notes

6B



# Chapter 7

Chapter 7 covers direction on the actions to be carried out at the point of capture. It incorporates all documentation required at this stage of the process.

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“

To reduce the higher risk of abuse that can be inherent at point of capture, our Armed Forces must make every effort to transfer CPERS away from it and through the CPERS chain as soon as possible.

”

## Chapter 7

# Point of capture

## Section 1 – Basic principles

7.1. The point of capture is described as the point when a member of the UK Armed Forces deprives an individual of their liberty.<sup>303</sup> From the point of capture it is essential to ensure that all captured persons (CPERS) are treated humanely; the situation is likely to be chaotic and stressful, so every care must be taken to ensure that any CPERS are protected and cared for, which will have the secondary effect of ensuring that our personnel are protected from damaging allegations. Treating a CPERS humanely from the point of capture is not only a legal requirement, it also sets the conditions for subsequent exploitation through tactical questioning and interrogation.

7.2. The basic principles and standards of treatment, including the five prohibited techniques outlined in Chapter 2 and the prohibition of taking photographs, will apply to CPERS from the point of capture.

**All allegations of abuse relating to CPERS must be immediately reported to the chain of command and to the Service police.**

7.3. To reduce the higher risk of abuse that can be inherent at point of capture, our Armed Forces must make every effort to transfer CPERS away from it and through the CPERS chain as soon as possible. It is critical that our Armed Forces process CPERS in a timely fashion to preserve relevant evidence and gather accurate intelligence. J3 and J1 staff are responsible for producing theatre orders that outline a timeline which, while taking due account of the limitations of the environment, ensures that CPERS are moved to a holding facility with Military Provost Staff oversight. Timelines for processing CPERS through the handling process are at Chapter 6, Section 3.

.....  
303 See paragraph 1.3 for details on the meaning of deprivation of liberty.

7.4. Unless specifically authorised by the Ministry of Defence (MOD), our Armed Forces are not to transfer CPERS to the forces of other nations.<sup>304</sup> Once captured by our Armed Forces, and unless transferred immediately, our Armed Forces must take CPERS to a UK unit holding area or release them, if the grounds to hold cease to exist. Interpreters may be required at the point of capture.

## Section 2 – Searches

7.5. The chain of command is responsible for ensuring that our Armed Forces are instructed on the circumstances in which searches may be conducted, the procedures to be followed, and the mandatory standards of humane treatment to be afforded to all CPERS. Searches<sup>305</sup> may be carried out prior to a person becoming a CPERS to determine whether or not to detain them; evidence discovered during a search may be useful. For example, it may identify their status, such as being a juvenile or member of a family group that has also been detained. Annex 7A provides guidance on methods of searching.

7.6. **Strip searches.** Strip searches constitute removing a CPERS' clothing layers to the skin. Therefore, such a search should not be conducted at the point of capture, but may be required at semi-permanent locations such as a unit holding area or theatre CPERS facilities, where dedicated CPERS personnel will be operating. The process and reasons for conducting a strip search must be covered in theatre standard operating procedures. Strip searches will only be carried out in the following circumstances.

- a. After the reason for the search has been explained to the CPERS (an interpreter may be required), the CPERS cooperation should be requested. (A record must be made that the reason for the search and subsequent use of information was explained to the CPERS and whether the CPERS was cooperative or non-cooperative.)
- b. There must be a minimum of two search personnel of the same gender as the CPERS to conduct the search. Strip searches by any

.....  
304 A memorandum of understanding, or similar, will generally have been concluded with the receiving state. In addition, Article 33 of the United Nations Convention relating to the Status of Refugees confirms the principle of non-refoulement, namely that refugees shall not be expelled or returned to a territory where their life may be at risk on the basis of numerous factors including race, religion and other beliefs.

305 Refer to *Military Engineering*, Volume 2, Pamphlet 11, Chapter 6 and *Close Combat – Survivability: Fieldcraft, Battle Lessons and Exercises*, Army Code 71717, June 2017, Battle Lesson 29.

personnel of a different gender to that of the CPERS must be authorised in advance by the Force Provost Marshal. Only if it is necessary to use force to conduct a strip search may more than two search personnel be used to assist the search.

c. The search should be conducted in a location where privacy from persons not conducting the search can be afforded; this will include screening from non-search personnel.

d. The CPERS should never be fully naked – above the waist and below the waist clothing should be removed separately.

e. Using force to remove clothing should be a last resort and only when strictly necessary and proportionate. A strip search requiring the use of force must be authorised in advance by the Force Provost Marshal.

**7.7. Using force.** Our Armed Forces must take all reasonable efforts to control a situation without resorting to the use of force. The circumstances in which force may be used and the degree of force to be used in a given situation will be governed by the legal status of the conflict and the current rules of engagement. Nothing in the rules of engagement limits an individual's inherent right to use force, including lethal force, in self-defence, or the defence of another, where to do so would be necessary and proportionate.

7

The use of minimum proportionate force to stop, search, disarm or capture a suspect is permitted when authorised by the rules of engagement.

**7.8. Conduct of searches.** When searching a person, CPERS or premises, vessels or vehicles, our Armed Forces should always adhere to theatre standard operating procedures and rules of engagement. Our Armed Forces must also apply the following minimum standards.

- a. The Service person conducting the search is to:
  - o maintain a record of the search;
  - o ensure the presence of a second Service person as a witness;
  - o explain to those subjected to the search the reason for the search; and
  - o issue a receipt for any property seized (MOD Form 2300B<sup>306</sup>).

.....  
306 See Annex A, Section 2.

- b. Our Armed Forces are to allow CPERS to retain property such as clothing, personal effects and religious items that do not represent a threat to security or the safety of the CPERS, or that do not have evidential value. Subject to practicalities, and specific advice, unless there is a risk from self-harm or a risk to others, a prisoner of war must be allowed to retain:<sup>307</sup>
- o feeding utensils, ration packs and water bottles;
  - o clothing, military and civilian, including that for their special protection such as helmets, body armour, respirators and nuclear, biological and chemical suits;
  - o badges of rank, nationality and military insignia;
  - o decorations and medals;
  - o identity cards/discs and, where not in their possession, identity cards must be issued to them;
  - o personal property which the CPERS are able to carry with them, such as watches, spectacles, wallets and articles of sentimental value like personal letters and family photographs; and
  - o medicine for the CPERS' personal use.
- c. Our Armed Forces are to conduct searches with due regard for the CPERS' personal dignity, taking into account religious sensibilities.
- d. Unless absolutely unavoidable, our Armed Forces are to ensure that:
- o searches are conducted by persons of the same gender, or by the use of scanners, (such search methods may also be appropriate for juveniles and children);
  - o female Service personnel should search juveniles or children – however, it is recognised that cultural norms may require male juveniles and children to be searched by male Service personnel; and

.....  
307 Geneva Convention III 1949, (GC III), Article (Art) 18.

- o where the above is not possible, another member of our Armed Forces, and where possible someone more senior to the individual conducting the search, should supervise the search and record the details.
- e. Service personnel carrying out searches may request those subject to the search to open their mouths but they must not insert fingers or any other items into the mouth because this would constitute an intimate search. Intimate searches must not be carried out at the point of capture.
- f. Service personnel conducting the search should:
  - o remove weapons (including knives and anything capable of being used as a weapon), ammunition, associated improvised explosive device equipment, all communications equipment and information technology, documents, maps and military equipment, such as radios;
  - o record the above items as belonging to the CPERS;
  - o whenever possible, make weapons safe, and evacuate them with the CPERS;
  - o provide a receipt to the CPERS for all items removed (an example of a property receipt is at MOD Form 2300B);<sup>308</sup> such items may be used for evidential or exploitation purposes;<sup>309</sup> and
  - o prevent CPERS from destroying equipment or documents in their possession as these may be of interest to interrogators and J2.
- g. UK Armed Forces are to:
  - o search vehicles, vessels (or maritime structures and installations), aircraft or equipment in or near where CPERS are captured;
  - o ensure that any documents, equipment or maps found with CPERS are evacuated with CPERS;

.....  
308 See Annex A, Section 2.

309 For details on initial documentation see Chapter 7, Section 3.

- o search any vehicle or vessel used to transport CPERS from point of capture to the unit holding area as this is often where small items will be discarded; and
- o refer CPERS in possession of an unusually large amount of medicines or medicine of an unusual type for medical screening – in any case, medicines should not be removed from CPERS if to do so would result in discomfort, suffering or risk to their health.

h. In a maritime CPERS operation, where practicable, our Armed Forces should search CPERS ideally prior to their transfer to a UK vessel or, if not possible, immediately on their arrival on board. The ship's weapon engineering officer (or the equivalent officer on board auxiliary vessels), should give consideration to formulating a ship-specific policy for the storage of captured weapons.<sup>310</sup>

The use of minimum proportionate force to stop, search, disarm or capture a suspect is permitted when authorised by the rules of engagement.

7.9. **Method of search.** Individuals should be searched systematically, having protected them from extreme weather, using the following guidelines.

- Suspects who become CPERS are to be disarmed and their weapons made safe and seized.
- Outer garments should be removed (coats, headwear and footwear).
- Pockets should be emptied and contents checked.
- The search should begin at the head and finish at the feet.
- Particular attention should be paid to collars, pockets, linings and footwear.
- Contact should be maintained with the body – rub, do not pat.

.....  
310 The ship's weapon engineering officer will be best placed to decide whether recovered weapons and ammunition can be safely held on board.

- Gloves should be worn (latex if available).
- Technology and resources may permit airport style body scanner checks.

## Section 3 – Initial documentation

7.10. The aim of the initial stage in the documentation process is to identify CPERS through recording their capture number and placing them into the evacuation chain. The initial documentation of the CPERS is normally carried out as close to the point of capture as possible. An example of a capture card is at Annex A, Section 1. This process provides sufficient means of identification until the CPERS reaches the first purpose-built facility in the handling chain, normally a CPERS holding facility, at which stage the CPERS registration unit becomes responsible for the full documentation (for details see Chapter 10, Section 6).

7.11. The Geneva Conventions require the UK to notify the relevant authorities of the capture and every significant subsequent event affecting prisoners of war and internees including transfers, releases, repatriations, escapes, admissions to hospital and death.<sup>311</sup> Captures and other significant events are to be notified within the shortest delay possible and at maximum within 14 days. The commandant's field record section will normally be responsible for these notifications to the National Information Bureau and Central Agency<sup>312</sup> and/or the International Committee of the Red Cross (ICRC). Although not a legal requirement, a similar system should also operate in relation to all CPERS.

7.12. Initial documentation of CPERS may be made difficult by the confused conditions of combat and will be further complicated by language difficulties. For operational reasons, it will not be unusual for the initial documentation process to be delayed until CPERS have been evacuated from immediate danger. In these circumstances, some loss of potential information sources must be balanced against the freedom of action of the unit commander and the requirement to evacuate CPERS to safety as soon as possible.

.....  
311 GC III, Art 122. The Prisoners of War Information Bureau shall be notified of all events affecting prisoners of war. Geneva Convention IV 1949 (GC IV), Art 136. The National Information Bureau shall be notified of all events affecting internees. GC III, Art 123; GC IV, Arts 137 and 140 details the transfer of information on CPERS to the Central Agency.

312 For more information, see Chapter 4, Section 5.

7.13. Although initial documentation may have to be truncated due to the requirement to move CPERS out of the combat zone quickly, the full documentation process has to be undertaken as soon as is reasonably practical. Without an effective accounting system for CPERS, they cannot be efficiently fed, accommodated, appropriately questioned, transported, notified to the ICRC and their next of kin kept informed of their whereabouts. Providing adequate information technology support to enable this task to be fulfilled is essential and the need for competent interpreters cannot be overstated.

7.14. Documentation at the point of capture will be carried out by unit personnel at the unit headquarters location to which CPERS will be brought following their capture. Where very large numbers of CPERS are involved, the process may be devolved down to sub-unit level.

7.15. An efficient CPERS documentation system enables maximum intelligence value to be obtained from interrogating CPERS. A system that relates CPERS to a place and time of capture and to equipment and documents which may have been captured with them is of immense value to the interrogator. It is important that equipment or documents are evacuated with the CPERS until they can be handed over to the CPERS holding facility and, where relevant, to intelligence personnel or Service police if the CPERS has potentially been involved in a criminal act.

7.16. Where possible, the UK should operate an automated data process system for documenting and tracking CPERS from the time of capture. Where this is not available, however, a manual system may be used.

7.17. Every CPERS is allocated a unique serial number to enable their identification and tracking by the CPERS handling organisation throughout the CPERS handling process. If the automated data process system is available at the point of capture, it will generate a CPERS serial number at that stage. If this is not possible a temporary CPERS serial number is allocated from a block held by the capturing unit to enable CPERS tracking between the point of capture and CPERS holding facility, at which point a permanent CPERS serial number is generated and allotted.<sup>313</sup> Blocks of serial numbers are to be recorded and tracked to ensure transparency and historical tracking. Full details of the CPERS serial number system are found in Chapter 10, Section 6 and Annex 10B.

.....  
<sup>313</sup> Units may be allocated (by formation) a list of capture numbers to be allocated to CPERS to allow their tracking prior to allocation of their formal internment serial number.

7.18. The initial capture report, as shown in Annex 7B, is completed by the capturing unit and retained by the escort until the CPERS is handed over. Its purpose is to record basic circumstances surrounding the CPERS capture. This form is mandatory for prisoners of war.

7.19. The unit should also complete the detail of capture record, as shown at Annex A, Section 2. This alerts the CPERS handling organisation of the imminent arrival of CPERS at the unit holding area, collection point or CPERS holding facility and the J2 exploitation staff at formation level of the availability of a potential source of information. An example of a North Atlantic Treaty Organization (NATO) group capture report is at Annex 7C.

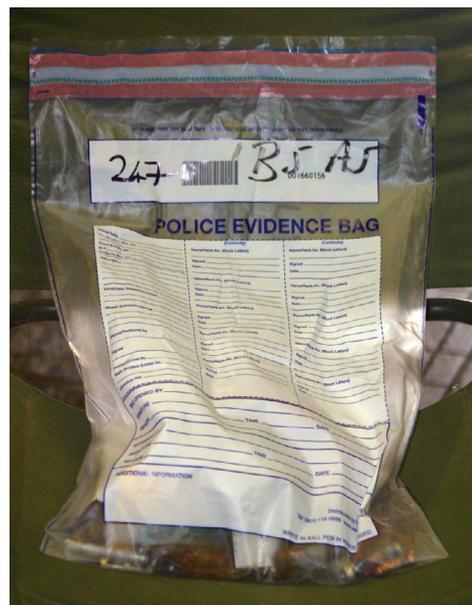
## Property and evidence

7.20. The capturing unit must ensure property belonging to CPERS is properly accounted for, using the capture card at Annex A, Section 1. This is to ensure that property can be exploited, preserved as evidence and/or returned to the owner as appropriate. The capturing unit should give consideration to the items which may be retained, and the items which may constitute evidence that could be used in a later investigation. They must secure and clearly label any evidence and property as near to the point of capture as possible to avoid loss or contamination, as shown in the image to the right.

7.21. The capturing unit must ensure that all property seized and retained is documented and a receipt in triplicate prepared. They must provide the CPERS with the original receipt, store one copy with the property and retain the third with the CPERS documents.

7.22. Whenever a capturing unit suspects that a CPERS is in possession of material which may be of intelligence value or evidence of a crime having been committed, the capturing unit should take the following action.

- a. Remove the property from the CPERS and label it as follows:
  - o national identifying letters of capturing unit as prescribed in NATO Standardization Agreement (STANAG) 1059, for example, 'UK';
  - o designation of capturing unit, including Service;



- o date-time group of capture;
- o location of capture;<sup>314</sup>
- o captured from whom;
- o summary of circumstances of capture to include the details of the Service personnel involved; and
- o associated captured persons.

b. Securely package or place the property into a suitable container which should then be safeguarded.

c. Provide the CPERS with a property receipt (MOD Form 2300B<sup>315</sup>).

d. Report seizure of the property to the Service police and hand over the property to their custody as soon as practicable.

7.23. The capturing unit should identify any CPERS for the Service police to consider criminal investigation of those CPERS who are suspected of having committed, been involved in, or have knowledge of crimes, terrorist acts, crimes against humanity, or war crimes. The responsible authority (depending on the nature of the operation) will determine whether a CPERS will be subject to criminal prosecution and whether they will be dealt with under the International Criminal Court, by the host nation, or by the UK.

7.24. The decision on any criminal prosecution will govern whether the Service police investigation or intelligence exploitation model has primacy.<sup>316</sup> Although a CPERS may be subject to police investigation, this does not necessarily preclude concurrent intelligence exploitation provided this does not conflict with the criminal investigation and judicial process, including the right of a CPERS not to testify against themselves, of which the CPERS must be informed. Immediate liaison between the legal adviser, Service police, J2 and the commander will be required to resolve primacy. In serious cases it may be necessary to hand the CPERS over, along with all evidence collected, to either civilian or Service police. The earlier the Service police can be involved and jurisdiction determined the better to ensure an uncontaminated, unbroken chain of custody/evidence which will be imperative to ensure any subsequent conviction.

.....  
314 Geographic coordinates or Universal Transverse Mercator grid reference including grid zone designation and 100,000-metre square identification.

315 See Annex A, Section 2.

316 For example, if the UK decides to prosecute a CPERS within the jurisdiction of the host nation the investigation must be conducted and the evidence must be gathered in accordance with host nation procedures. In such a case, transfer of the CPERS to host nation jurisdiction will be required.

## Section 4 – Treatment of captured persons casualties

7.25. CPERS casualties are to receive the same standards of medical treatment as our own personnel with priorities for treatment and evacuation being allocated solely according to medical criteria. For details on medical treatment see Chapter 3. The capturing unit is to disarm and move sick or wounded CPERS up the casualty evacuation chain to the nearest medical aid post.

7.26. A summary of the main elements of the processing procedure for sick and wounded CPERS at the unit holding area are as follows.

- a. **Search.** The capturing unit is to search CPERS casualties in such a manner that it does not aggravate their medical condition.
- b. **Guarded.** The capturing unit is to segregate and guard CPERS with minor injuries until they can be returned to the CPERS handling system. Seriously injured CPERS may not require guarding.
- c. **Questioned.** Medical staff may only question injured CPERS about the extent of their injuries. Tactical questioning or interrogation of seriously injured CPERS is not permitted. The capturing unit, however, is to allow CPERS who wish to provide information the opportunity to speak to J2 personnel.
- d. **Evacuated.** After initial treatment, the capturing unit is to evacuate CPERS up the medical chain or return them to the CPERS handling organisation.

### Captured persons questioning

7.27. Questions to establish identity, status, age and any information directly and immediately pertaining to force protection are not considered to be tactical questioning. Any Service personnel involved in CPERS processing may ask those questions. If the CPERS is unwilling to speak, however, only qualified tactical questioners may engage with the CPERS. For guidance on questioning of juveniles and children see Chapter 2, Section 4. Tactical questioning must be carried out as close to the point of capture as practical but must only be conducted by specially trained, qualified and current tactical questioning experts, who have been properly authorised to engage in such

activity.<sup>317</sup> For specific details on tactical questioning see Chapter 11. For every CPERS, a record of the tactical questioning must be made. A copy of the form used to record tactical questioning is at Annex A, Section 2.

7.28. It is essential that from point of capture, the capturing unit segregate and provide separate accommodation for women, juveniles, children, rival groups and vulnerable CPERS. In any event, living conditions in segregated units should allow for sufficient meaningful human interaction. Further detail on such groups is at Chapter 2, Section 4.

## Section 5 – Segregation and categorisation

7.29. The *United Nations Standard Minimum Rules for the Treatment of Prisoners* suggests a definition of solitary confinement as: the confinement of prisoners for 22 hours or more a day without meaningful human contact.<sup>318</sup>

7.30. There is also a legal requirement to accommodate and administer other categories of CPERS separately. It is acknowledged that resources, facilities and personnel may be limited at this stage of the CPERS handling process, but the capturing unit are to make every effort to categorise and segregate the following.

7.31. **Prisoners of war.** In international armed conflict, if our Armed Forces capture both prisoners of war and internees, they must clearly segregate these two categories.<sup>319</sup> This is a legal requirement under the Geneva Conventions. Our Armed Forces should also segregate officers and senior non-commissioned officers who are prisoners of war from their subordinates to prevent them from organising escapes, sabotage or generally giving encouragement and moral support.

7.32. **Detainees.**<sup>320</sup> Where possible our Armed Forces should separate criminal detainees from other CPERS to preserve evidence and for reasons of safety. Additionally, they should segregate detainees from each other to avoid contamination of evidence and prevent collusion. If segregation is impossible,

317 See Chapter 11, and *Defence Tactical Questioning Policy*, 12 August 2020.

318 *United Nations Standard Minimum Rules for the Treatment of Prisoners*, 2015, Rule 44.

319 As defined in Chapter 1, Section 5.

320 As defined in Chapter 1, Section 5.

our Armed Forces must closely guard detainees to avoid conversation and contamination of evidence.

7.33. **Internees.**<sup>321</sup> Where individuals are being interned for security reasons alongside prisoners of war and criminal detainees, our Armed Forces must ensure that they are accommodated and administered separately.<sup>322</sup> In addition, where necessary to prevent collusion and contamination of evidence, they should separate internees from one another.

7.34. **Influential leaders.** Irrespective of the category into which they fall, our Armed Forces should segregate a CPERS who displays leadership influence, which could lead to security issues being encountered. This is common with any group of CPERS, with leaders in custody having either passive<sup>323</sup> or aggressive<sup>324</sup> influence over the CPERS population. Influential CPERS must be reported upon through the appropriate J2 chain. Such segregation should be reviewed on a regular basis and, if the reason for such treatment no longer exists, the CPERS should be returned to the general CPERS population. Care should be taken that such segregation does not amount to solitary confinement.

7.35. **Maritime operations.** In maritime operations, categorisation of CPERS, where practicable, should take place prior to their transfer to a UK vessel. If this is not possible, it should take place immediately on their arrival on board. Where this is not practicable, owing to space constraints on board, our Armed Forces should give consideration to transferring CPERS to larger vessels or to the segregation of CPERS using different vessels. CPERS are not interned at sea, holding CPERS will be a temporary and exceptional circumstance until transfer to an appropriate land-based facility is possible.

.....  
321 As defined in Chapter 1, Section 5.

322 GC IV, Art 84. Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of their liberty for any other reason.

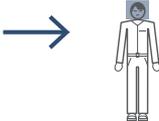
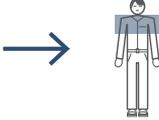
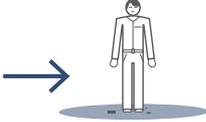
323 For example, food protest.

324 For example, inciting violence.

Notes

## Annex 7A

# Example poster for guidance on searching

- 1 Face the detainee.
- 2 Ask them if they have anything unauthorised.
- 3 Ask them to empty pockets and remove jewellery. 
- 4 Search pockets and jewellery.
- 5 Search any other items carried by the detainee, including bags.
- 6 Remove and search headgear. 
- 7 Search the head and hair.
- 8 Look around and inside ears, nose and mouth. You may ask them to raise their tongue so that you can look under it.
- 9 Search around collar and tops of their shoulders. 
- 10 Ask them to raise arms level with shoulder with fingers apart and palms facing downwards. 
- 11 Using flat open hand, search each arm.
- 12 Check hands. 
- 13 Using flat open hand, check front of body from neck to waist, sides from armpits to waist and the front to the waistband. 
- 14 Check back from collar to waist, back of waistband and seat of trousers. 
- 15 Check back and sides of each leg from crotch to ankle. 
- 16 Check front of abdomen and sides of each leg. 
- 17 Ask them to remove footwear. Search thoroughly. 
- 18 Check soles of feet.
- 19 Observe area around them for objects dropped. 
- 20 Ask them to step to one side and observe immediate area. 

7A

Notes

7A

## Annex 7B

# Initial capture report

<b>Capture report</b>	<b>OFFICIAL SENSITIVE</b>	F/PW 779 UK (introduced 8/90)
<p>■ To be completed at the time of capture by the capturing ship/unit and retained by the escort until the captured person(s) (CPERS) is/are handed over.</p>		
<p>1. Name of CPERS ..... 2. Rank .....</p>		
<p>3. Service number ..... 4. Service unit .....</p>		
<p>5. Where captured (grid ref) ..... 6. Nationality .....</p>		
<p>7. Date-time group (DTG) of capture .....</p>		
<p>8. Direction heading (eg. north-east, south-west, etc.).....</p>		
<p>9. Other members of group (name/rank/service number(s)).....</p>		
<p>Signed .....</p> <p>Name .....</p> <p>Rank .....</p> <p>Ship .....</p> <p>DTG .....</p>	<p>.....</p> <p>.....</p> <p>Food and drink given at (DTG):</p> <p>1 ..... 4 .....</p> <p>2 ..... 5 .....</p> <p>3 ..... 6 .....</p>	
OFFICIAL SENSITIVE		

7B

This form may be completed once in respect of a number of CPERS captured at the same time.

**This form must be used for prisoners of war.**

**Note:** Point 5 – ‘Where captured’ should include basic details such as, captured in house/field/car, etc.

Notes

7B

## Annex 7C

# NATO group capture report

7C.1. The group capture report (GROUPOCAPREP) is a standard North Atlantic Treaty Organization (NATO) message. Nations have agreed to its use through their ratification of NATO Allied joint Publication (AJP)-2.5, *Captured Persons and Documents* which contains full details of the message, its use and format.

7C.2. **Purpose of the report.** The purpose of the report is to alert:

- the J2 organisations of the possible capture of a potential source of information; and
- the captured persons (CPERS) handling organisation to the capture of CPERS so that arrangements for the movement, care and disposal of the CPERS can be put in train.

7C.3. **Completing the report.** Capturing units are to complete the GROUPOCAPREP as fully as the circumstances allow. The evacuation of CPERS should not be delayed by the requirement to complete a GROUPOCAPREP. Where the capturing unit has the ability to categorise CPERS, this should be done and the category noted in the GROUPOCAPREP.

7C.4. **Format of the group capture report.** The format of the GROUPOCAPREP is set out on the following pages.

**This form must be used for prisoners  
of war.**

7C

## Sample format of a group capture report

(The GROUPOCAPREP should be as complete as circumstances allow. It should ideally contain the following information).

1. Designator of capturing unit:
2. Date/time group of capture:

D	D	T	T	T	T	Z	M	M	M	Y	Y
---	---	---	---	---	---	---	---	---	---	---	---

3. Location of capture:

- a. UTM/grid reference.

N	N	A	A	A	N	N	N	N	N	N
---	---	---	---	---	---	---	---	---	---	---

- b. Latitude/longitude

N	N	N	N	N	N	A	■	N	N	N	N	N	N	N	A
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

4. Numbers of captured persons (CPERS): (Use one-up numerics, i.e. OM0001, OM0002).

- a. Officers-Male

O	M				
---	---	--	--	--	--

- b. Officers-Female

O	F				
---	---	--	--	--	--

- c. NCOs-Male

N	M				
---	---	--	--	--	--

d. NCOs-Female

N	F				
---	---	--	--	--	--

e. Other Ranks-Male

S	M				
---	---	--	--	--	--

f. Other Ranks-Female

S	F				
---	---	--	--	--	--

g. Others (Description)-Male

C	M				
---	---	--	--	--	--

h. Others (Description)-Female

C	M				
---	---	--	--	--	--

5. Captured documents (CDOCs): (Numbers, type, nationality).
6. Captured materiel (CMAT): (Numbers, type, nationality).
7. Circumstances of capture: (include wherever possible direction of movement, size of force, speed of movement, etc.).
8. Location at time of report.
9. Evacuation intentions: (To where, when and by what means).



# Chapter 8

Chapter 8 covers direction for transporting and escorting CPERS between the different stages of the CPERS handling process. The standards of treatment contained in Chapter 2 will apply throughout the movement of CPERS. Chapter 6 addresses logistic planning for CPERS activities.

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“

It is essential that all members of our UK Armed Forces are instructed in their responsibilities towards CPERS and that personnel detailed as escorts clearly understand their rules of engagement and are clearly briefed on the degree of force they may exercise to prevent CPERS escaping.

”

## Chapter 8

# Moving captured persons

## Section 1 – Transporting and escorting captured persons

8.1. Moving captured persons (CPERS) between locations constitutes the highest risk of all the various CPERS handling activities. It may not always be possible for the escorts to be in total control of the environment, and maintaining control over CPERS can be problematic, especially if some are actively seeking ways of escape, assaulting escorts and others, acquiring aids to escape or causing a disturbance.

8.2. The capturing sub-unit will provide escorts from the point of capture to the unit holding area and to the collection point. Once CPERS have arrived at the collection point their onward movement should become the responsibility of the CPERS handling organisation commander, who will provide the escort for the move to their next destination. Alternatively, if no other provisions have been made, the unit will be responsible for moving CPERS to the CPERS holding facility.

8.3. It is essential that all members of our UK Armed Forces are instructed in their responsibilities towards CPERS and that personnel detailed as escorts clearly understand their rules of engagement and are clearly briefed on the degree of force they may exercise to prevent CPERS escaping.<sup>325</sup>

8.4. Evacuating or moving CPERS from their point of capture to the CPERS holding facility where they will remain in captivity may be as simple as a move from the unit holding area or collection point directly to the CPERS holding facility. Alternatively, it may be a series of moves through a number of staging points, over long distances, to a final destination. Additional guidelines for the different modes of transportation of CPERS are detailed in Section 3 and

325 Escorts will be governed by Joint Service Publication (JSP) 383, *The Joint Service Manual of the Law of Armed Conflict* and JSP 398, *United Kingdom Manual of National Rules of Engagement*, Card A, *Guidance for Opening Fire for Service Personnel Authorised to Carry Arms and Ammunition on Duty* and Card E, *Guidance for Service Personnel Authorised to Use Batons*, unless otherwise specified.

Annex 8A; with specific considerations for the movement of CPERS by air at Annex 8B.

**CPERS must be passed along the handling chain as quickly as possible.**

## Principles

8.5. Whether the move is short or long, staged or direct, a number of principles govern the movement of CPERS.<sup>326</sup>

- a. CPERS shall be moved, as soon as possible after their capture, to a place far enough from the combat zone or hostile environment for them to be out of danger.

**The movement of CPERS must be conducted humanely.**

- b. CPERS are to be provided with sufficient food of a standard similar to that made available to our Armed Forces, but account is to be taken of their dietary habits. Adequate provision for water, additional clothing and protection against the elements should be made.
- c. Ideally, movement should be made from a unit holding area or collection point directly to the CPERS holding facility. Where this is not achievable, there should be as few intermediate stages as possible and time spent at each stage kept to a minimum.
- d. Arrangements for wounded and sick CPERS are to be made and carried out in accordance with medical advice.<sup>327</sup> Wounded and sick CPERS are to be moved under escort through the same casualty evacuation system as our Armed Forces. Ambulances must not be used to transport uninjured CPERS.
- e. CPERS are not to be moved outside the theatre unless the move is authorised by the Ministry of Defence (MOD). MOD legal and policy

.....  
<sup>326</sup> Geneva Convention III 1949 (GC III), Articles (Arts) 19 and 20. Although these principles are mandatory for prisoners of war, they are of general application to all CPERS.

<sup>327</sup> See Chapter 3.

advice is essential whenever such extraterritorial movements are envisaged.<sup>328</sup>

**It is essential that all forms of transport used to move CPERS are searched prior to them embarking and disembarking.**

- f. At all times the escort is to be in communication with the headquarters of the formation whose area of operations they are transiting through.
- g. Depending on how long the move will take and the time of day, the following items of equipment may be necessary:
- o restraints;
  - o night vision goggles for use by escorts;
  - o cyalumes (to be attached to CPERS at night);
  - o blacked-out goggles;
  - o ear defenders;
  - o helmets; and
  - o combat body armour, if available and necessary (it must not have UK camouflage covers on and should preferably have dark blue covers).

Only in extremis should CPERS be issued with camouflage combat body armour and only when no plain covered combat body armour is available.

- h. Depending on the type of CPERS to be moved, consideration should be given to using the following specialist personnel in addition to the escorts:
- o Military Provost Staff;
  - o Service police;
  - o a legal adviser;
  - o medical staff;
  - o dogs with handlers; and
  - o interpreters.

- i. A policy on the use of restraints is to be made clear and should reflect the standards to be applied in the orders for the move. If hands

<sup>328</sup> See Chapter 12. Such guidance should be sought through the chain of command.

are tied, it should only be to the front, in such a way that it allows for normal blood circulation. CPERS should never be attached to fixed elements, for example, to a vehicle.

j. CPERS shall be informed in advance that they are to be moved and given reasonable time to prepare for the journey.<sup>329</sup> The amount of information and notice given to CPERS will depend upon an assessment of the security situation, policy and practical matters.

k. If being deprived of their sight or hearing, the sensory deprivation must be kept necessary, strictly to the minimum time required, and CPERS should be told, in general terms, where they are being taken and if at all possible the reason for their move.<sup>330</sup>

## Section 2 – Planning the move

8.6. When planning to move CPERS, the unit should, where appropriate, seek advice from the Force Provost Marshal and the legal adviser. The following details must be ascertained.

a. **The number and nature of captured persons to be escorted.** CPERS' life experience should be taken into account, for example, they may not have flown or been in ships and therefore such movement could make them anxious/nauseous. The number and nature of CPERS to be escorted are key factors in determining the size and composition of the escort and the need to consult with subject matter experts. If women, juveniles or children are included, female Service personnel must form part of the escort wherever possible. If vulnerable CPERS<sup>331</sup> are included, consideration should be given to providing medical personnel.

b. **The condition and morale of the captured persons.** Tired and cooperative CPERS may not need as many escorts as those who are fresher and better motivated.

c. **The method of movement.** Movement on foot offers more opportunities for escape than vehicle movement. Certain types

.....  
329 This is mandatory for prisoners of war in accordance with GC III, Art 48.

330 See Chapter 2, Section 3.

331 As defined in Chapter 2, Section 4.

of movement (such as by truck, train, air and sea) require specific precautions to be taken by the escort, as detailed in Annex 8A.

d. **The terrain.** The terrain across which the CPERS are to be moved will influence the numbers in the escort and the method of movement. Movement across difficult terrain or in a built-up area, for example, will usually call for more escorts than movement across a flat desert.

e. **Enemy activity.** Any likelihood of enemy interference with the move will require an escort capable of taking offensive action to protect itself and keep CPERS under escort.

f. **The location of other units on the route.** Before departure, the escort should familiarise itself with the location of units on its planned route in case it needs to seek assistance or make rest stops during the course of the journey.

g. **Cultural considerations.** Consideration should be given to potential cultural issues which may impact on CPERS compliance, such as prayer times and meals.

## Section 3 – Methods of moving captured persons

8.7. It is unlikely that there will be dedicated transport to move CPERS. Their movement will often be based on the return journeys of vehicles and aircraft delivering combat supplies forward to the general area from which CPERS are to be moved. Transport arrangements will be coordinated by the J1 and J4 staffs at the formation headquarters concerned. It is essential that theatre headquarters is made aware of all moves; all moves must comply with the theatre movement policy. Guidance on the different modes of transportation is set out below with additional direction included in Annex 8A.

a. **Movement on foot.** Moving CPERS on foot will only be carried out where there is no transport available and immediate movement is essential for operational reasons, including CPERS' safety. While moving CPERS on foot may be acceptable for small groups over short distances, it is an unsatisfactory method for moving larger numbers over longer distances, except as a last resort where there is no other way

of moving CPERS from a combat zone. Where there is no alternative, the normal support to marching bodies, such as straggler transport, medical support, food and provisions, must be provided. For their own protection, escorts may be mounted in open vehicles, but not on motorcycles.

b. **Movement by road.** Movement by vehicle is the most likely method of transportation. Vehicles are to be appropriate to the threat level in the area, particularly improvised explosive devices and, where applicable, they should be covered with side and rear flaps, secured to reduce the possibility of escape and to shield CPERS from media attention and public curiosity. Whenever possible, a convoy should include recovery and support vehicles.

c. **Movement by rail.** CPERS moved by rail will normally be moved in passenger coaches. Where this is the case, doors are to be locked where possible and escorts should be dispersed along the length of the train in separate compartments or areas. If passenger coaches are not available and the operational situation requires the movement of individuals in freight vans, the doors are to be secured and escorts are either to travel on their own in every third van with doors open, or in mesh enclosures in the vans. When the train stops, escorts should dismount and deploy to cover the entire length of the train.

d. **Movement by air.** When being transported by air, CPERS are to be searched immediately before entering the aircraft for prohibited items and dangerous air cargo.<sup>332</sup> The aircraft is also to be searched after the CPERS have disembarked. In rotary wing air transport moves, escorts are to be positioned to prevent access to the flight deck or controls. In fixed wing air transport moves, military aviation protection officers (MAPOs) will be responsible for the safety and security of the aircraft and crew whilst escorts will be responsible for securing and the safety of the CPERS. MAPOs and escorts on the aircraft are to be armed commensurate with the threat. If CPERS are to be restrained while on board an aircraft, in no case may such restraints be applied in such a way that would constitute cruel, inhuman or degrading treatment. Restraints must not prevent the CPERS evacuating the aircraft in an emergency. Restrained CPERS must also not present a flight-safety risk to other passengers in the event of an emergency in the aircraft. CPERS are to be instructed in emergency drills and sufficient life-saving

.....  
<sup>332</sup> See Chapter 7, Section 2 for guidance on searches.

equipment is to be provided for those on board. Further details can be found in Annex 8B. It is essential that the force movement control centre is contacted at the earliest opportunity to ensure the most appropriate aircraft is allocated to the task.

e. **Movement by sea.** The arrangements for moving CPERS by sea may differ from that of CPERS captured on land. Further details can be found in the Royal Navy's Book of Reference (BRd) 9622, *Detention of Captured Persons in the Maritime Environment* and Annex 8A. While the broad principles of treatment are identical, in each case there is likely to be a specific maritime dimension that will require different actions to be taken up to the moment that the CPERS are finally landed and handed over to the land-based CPERS holding facility or coastal state authority. They are to be instructed in emergency drills and sufficient life-saving equipment is to be provided for those embarked.<sup>333</sup>

f. **Law enforcement detachments.** When a law enforcement detachment is embarked on board a UK warship or auxiliary their roles and responsibilities will be governed by a memorandum of understanding specific to the operation or theatre of operations. Where a memorandum of understanding delegates authority for the handling of CPERS to law enforcement detachments, the minimum standards of treatment defined by this publication and other associated policies apply and must be upheld for the duration of any detention operations on board. Where law enforcement detachments are failing to comply with the minimum standards or there is an apparent risk of abuse or mistreatment, our Armed Forces must take positive action, as determined by the command, to prevent further harm to CPERS.

## Section 4 – The escort and escort party

8.8. **Role of the escort.** The role of the escort is both to protect CPERS and to prevent them from escaping or being liberated. The responsibility of an escort for those in its charge begins when it assumes its escort duty and ends when CPERS are handed over to the next stage in the CPERS handling

.....  
333 Detaining CPERS in the maritime environment is addressed in detail within BRd 9622, which provides maritime-specific direction and amplification of the guidance within this publication.

process. Escorts are to be briefed in detail on their responsibilities, including the use of force.

8.9. **Location and number of escorts.** The location of escorts for all modes of transportation is set out in Annex 8A. The escort party is to consist of a formed body of Service personnel. Each situation will be different and local factors will determine the number of escorts required, sufficient to deter escape attempts.

8.10. **Remaining vigilant.** The role of the escort party is to execute the mission in a safe, lawful, secure and humane manner. The escort commander must ensure that the escort party remain vigilant at all times. CPERS may well identify and exploit signs of guard boredom, complacency or fatigue.

## Annex 8A

# Guidelines for moving captured persons

## General instructions

The standards of treatment in Chapter 2 apply during all stages and modes of transportation.

UK Armed Forces are to:

- segregate captured persons (CPERS) by category and gender, maintaining segregation as far as is possible throughout the journey; and
- search CPERS, transport and baggage before loading.

If the use of restraints is specifically authorised, CPERS hands may be secured in front of them using plasticuffs or any other form of restraint that has been authorised by Provost Marshal (Army).<sup>334</sup>

If food is provided, do not allow metal cutlery and can openers to be used.

Drinking water must be available to CPERS throughout.

The guideline figures require further specialist input to take into account environmental and theatre-specific policy issues.

## On foot

Type of formation	CPERS numbers	Escorts required (guideline) <sup>335</sup>	Location of escorts
Marching column	300-500	40	Front, rear and flanks in accompanying transport

<sup>334</sup> See paragraph 8.7d for guidance on the use of restraints on an aircraft.

<sup>335</sup> The numbers of escorts detailed under the various categories are for planning guidance. They reflect the minimum requirements.

Wheeled vehicles			
Type of transport	CPERS load	Escorts required (guideline) <sup>336</sup>	Location of escorts
Truck utility light (TUL)	8	2	One in vehicle cab, the other in following vehicle
Truck utility medium (TUM)	10	2	One in vehicle cab, the other in following vehicle
4/8 tonne cargo	25	3	One in vehicle cab, the others in following vehicle
14 tonne cargo	40	4	One in vehicle cab, the others in following vehicle
Military coach	54	5	One at front of vehicle, two at rear of vehicle, two in following vehicle

For vehicle movement, the following special instructions apply.

- The proportion of escorts to CPERS-carrying vehicles is dependent on the size of the vehicle and numbers of CPERS, and an assessment of their morale and likely actions. The proportion may be increased at night or in bad visibility.
- The individual in charge of the escort is to fully brief drivers on routes, speeds and actions in the event of attack or escape of CPERS.

8A

Rail			
Type of rail coach	CPERS load	Escorts required (guideline)	Location of escorts
Freight wagon	25	3	In mesh enclosure in centre of wagon
Passenger coach	50	10	At either end of the coach

For train movement, the following special instructions apply.

- The individual in charge of the escorts is to brief escorts to dismount at halts and to secure a perimeter around the train.
- Where CPERS are in passenger coaches, escorts are to ensure that windows are suitably secure and are to carry out periodic checks of windows.

<sup>336</sup> The escort commander will confirm how many escorts are required having considered paragraph 8.6a.

Aircraft <sup>337</sup>			
Type of aircraft	CPERS load	Escorts required (guideline) <sup>338, 339</sup>	Location of escorts
Lynx – Wildcat	4	2	
Puma	8	4	Escort to guard exits and prevent CPERS access to flight deck
Merlin	12	6	
Chinook	27	14	
C-130 Hercules			
Mk 5	56	12	Escorts will be placed at the front of the hold (preventing access to the flight deck), in the waist of the aircraft (preventing access to emergency doors) and in the tail of the aircraft (preventing access to the rear door controls)
Mk 4	88		
C17	88 (using centre seats) 116 (in full pax fit – prior notice required)	12	Escorts will be placed in accordance with the directions of the air load master

For aircraft movement, the following special instructions apply.

- Aircrew or movement staff will supervise the loading of passengers, but the escort commander will remain responsible for the CPERS.
- Aircrew personnel will ensure that any equipment that could be used as a weapon is removed from the immediate vicinity of the CPERS. All such items should be out of reach of CPERS as far as is practicable.
- Aircrew or movement staff will provide CPERS with a brief in their own language prior to embarking on the aircraft informing them that they should follow the directions of the crew and escorts should an emergency or incident occur. Before departure, they should inform CPERS that the area of the flight deck/controls is out of bounds to them at all times.

337 Note that aircraft load limits may vary with different aircraft configurations and environmental factors.

338 The number of escorts detailed applies to pre-planned lifts. Guidance on the minimum escorts required for tactical lifts is set out in paragraph 8B.4.

339 The escort commander will confirm how many escorts are required having considered paragraph 8.6a. The number of escorts required should be considered on a case-by-case basis in line with paragraph 8.9, and the numbers in the table above are only a guide.

### Aircraft (continued)

- Aircrew or movement staff will order CPERS to keep seat belts fastened throughout the flight.
- Aircrew or movement staff will designate specific lavatories (where more than one exists) for CPERS' use and remove locks from lavatory doors (where fitted). If necessary for security purposes, doors should be left open.
- The escort is to hand the completed manifest (F Mov 237) for the escort and CPERS to the movement staff on arrival at the aircraft.
- Further detail on movement by aircraft can be found at Annex 8B.

### Ships

Geneva Convention III precludes the establishment of internment facilities at sea in relation to prisoners of war. Ships are therefore most likely to be used to remove CPERS from the joint operations area and to repatriate them on completion of hostilities. The type of vessel used and the number of CPERS embarked will determine the size of the guard force and how they will be deployed. CPERS who are prisoners of war being repatriated are less likely to be aggressive than those being removed from the joint operations area while hostilities are continuing. Warships are unlikely to be tasked with such an activity; the most likely type of ship is a passenger vessel taken up from trade. There is the possibility that officials from an organisation such as the International Committee of the Red Cross will be permitted on board vessels repatriating CPERS. In such circumstances, the Ministry of Defence will give guidance as to the formal relationship between such persons and the guard commander. The Joint Task Force Commander will detail the military guard force. The captain, or ship's company of a merchant vessel, should not be involved with supervising and handling CPERS.

For ship movement, the following specific instructions apply.

- Wherever possible, the guard force will keep CPERS in areas which have only one entry/exit route.
- When possible, the guard force will allow CPERS to have a period of exercise as set out in Chapter 2. Numbers undertaking exercise at any one time are to be commensurate with the size of the guard force available. CPERS' recreation is to be taken separately from the ship's company.
- If CPERS' meals are taken in a ship's dining hall, they are to be taken separately from the ship's company. It may be that the CPERS administration will determine that meals are taken within accommodation areas.

## Annex 8B

# Air movement of captured persons

8B.1. Moving captured persons (CPERS) by air carries significant risk and should take into account both the humane treatment of CPERS and the safety of the aircraft and its crew, guard force and passengers. All categories of CPERS may be transported on the same aircraft and must be protected from public curiosity. CPERS may be moved by fixed or rotary wing air assets as part of a tactical lift, or as part of a deliberate, pre-planned operation.<sup>340</sup> Planners should be aware that CPERS may never have flown in an aircraft and may therefore have genuine concerns or anxieties.

## Pre-planned moves

8B.2. For all pre-planned moves the CPERS must be booked onto the aircraft via the theatre force movement control centre. Theatre headquarters must be aware of the move, which must be carried out in compliance with theatre movement policy. A full risk assessment should be conducted during the planning phase. The requirement to provide medical treatment must be considered, which would include the risk of CPERS becoming ill or sick (vomiting and subsequent risk of choking) during the move.

8B.3. Some of the defining features of a deliberate operation are that:

- there is a dedicated aircraft for the operation, or a dedicated section of an aircraft;
- there has been sufficient time to conduct planning and to liaise with the crew;
- the aircraft crew and military aviation protection officers (MAPOs) have had time to search the aircraft for aids to attack or escape;

.....  
340 Additional information on transferring CPERS, including fragmentary orders (FRAGOs) for such activity, is held at the Operational Archive at the Military Corrective Training Centre.

- there are sufficient and appropriate personnel dedicated to the operation, such as, Military Provost Staff, Service police, MAPOs, a legal adviser, medics and interpreters; and
- sufficient and appropriate equipment, such as, night vision goggles, plasticuffs and escort-chain handcuffs of a type approved by the Provost Marshal (Army), and cyalumes (to be attached to CPERS clothing) and combat body armour and helmets are available.

If during a tactical lift some, or all, of the above are missing, the risk will be increased. In all cases, planning must include the procedures on arrival such as the positioning of vehicles and, if necessary, fresh escorts.

### Tactical lifts

8B.4. Passengers during tactical lifts may include a mixture of escorts, CPERS and other personnel who may have no direct connection to the CPERS. In extreme cases this could include, for example, embedded journalists and even wounded UK personnel; all of this will need to be managed by the escort commander. It is essential that the crew are informed, in advance, that CPERS will be on board. Whenever possible, CPERS and escorts should be last on and first off the aircraft during tactical lifts.

8B.5. Due to the potential risks involved in tactical lifts it is essential that there is one escort for each CPERS plus an escort commander for the escort party, who should not have direct responsibility for an individual CPERS. The role of the escort commander is to maintain overall situational awareness, direct the actions of the escorts to ensure the humane treatment of the CPERS, and, if requested, assist the crew in maintaining the safety of the aircraft. As the CPERS' property must be moved with them throughout the handling chain, it may be necessary for the escort to make arrangements for other passengers to take temporary charge of that property, depending on its bulk/quantity. Escorts must be focused on safely handling the CPERS and not also be overburdened with a combination of their own kit and CPERS property. The escort commander should be in possession of all the relevant documents relating to the CPERS.

8B.6. Security are to thoroughly search CPERS for weapons and contraband immediately before boarding the aircraft. Whenever possible, they must also ensure that CPERS are briefed in their own language, about the departure and restrictions while on board, as well as safety and emergency matters.

Experience has shown that some CPERS become disoriented on the aircraft and vomit – whenever possible this should be factored into planning.

8B.7. Escorts must be constantly alert and positioned in seats such that the CPERS cannot gain access to weapons, or anything that will endanger the aircraft or cabin area. If considered necessary by the escorts, CPERS are to be placed into restraints but they must never be secured to any part of the aircraft other than wearing a safety belt (it will probably be necessary for the escort to apply/release the safety belt).<sup>341</sup> The escorts should provide CPERS with water and encourage them to use the toilet before boarding the aircraft. If CPERS wish to use the toilet they must be escorted by at least two UK personnel and must not be allowed to close the toilet door completely for security reasons. If it is necessary to feed CPERS during a flight, food should be a packed-type meal, such as sandwiches, that can easily be eaten without utensils.

## Deliberate operations

8B.8. Deliberate operations may take place using military or civil aircraft. If a civil aircraft is used, it is essential that, as a minimum, there is a screened, dedicated area for the CPERS and their escorts. The escort must seek planning advice from the Provost Marshal (Army) for operations involving civil aircraft.

### The escort commander must:

- monitor the escorts to ensure that they always maintain weapon control;
- control CPERS communication and maintain appropriate segregation;
- ensure that the escorts check restraints periodically;
- prevent any contact (including taking photographs and making audio recordings) between other passengers and CPERS;
- prepare for actions at planned stops and anticipate actions at unexpected stops;
- direct response actions during emergencies; and
- correct, report and document any allegations of CPERS abuse.

<sup>341</sup> Also see paragraph 8.5i on guidance on use of restraints.

## Roles and responsibilities of escort commander

8B.9. **Move preparation.** Before moving CPERS, the escort commander must complete the following.

- a. Carry out a full assessment of handler/escort to CPERS ratio. Consideration must be given to any injured and vulnerable CPERS, as well as CPERS groups, for example, women, juveniles and vulnerable CPERS.
- b. Full risk assessment of method(s) of transport and order of move.
- c. Recce of forward location is to be carried out if practicable and safe to do so, consideration must be given to safe areas/locations along the route in the event of delays.
- d. Issue full orders to escort party and any other movement staff involved.
- e. Liaise with the forward location confirming timings, numbers of CPERS and escorts.
- f. Ensure all relevant documentation is present and correct, to include capture cards, evidence sheets and detainee records.
- g. Full equipment check, to include plasticuffs, blacked-out goggles, combat body armour, helmets, hearing protection and safety scissors.
- h. Locate and correctly identify all CPERS' personal possessions and evidence, checking that all are correctly labelled and identifiable to each CPERS.
- i. Rehearsals which include communications checks if practicable (consider time restrictions and theatre environment).
- j. Prepare for actions at planned stops and anticipate actions at unplanned stops.
- k. During prolonged periods of movement consider a feeding plan. CPERS must have access to water at all times.

l. Thoroughly search all CPERS.

m. Escort commander must be in possession of all relevant documentation relating to each CPERS.

8B.10. **During the move.** During the move, the following must be carried out.

a. Escorts to be in control of each CPERS' possessions, including personal belongings and evidence.

b. Escorts to be positioned in seats so as not to allow CPERS access to drivers/cabin crew or weapons in all modes of transport.

c. Prevent any contact between CPERS and other passengers.

d. The escort commander must monitor all escorts to ensure they maintain weapon control.

e. Maintain control of CPERS communication and segregation, where appropriate.

f. Ensure escorts check restraints periodically.

g. Direct response actions during emergencies.

h. Correctly report and document any allegations of CPERS abuse/mistreatment.

i. Monitor the condition of each CPERS throughout, paying particular attention to injured and vulnerable CPERS.

j. Ensure CPERS have access to water at all times.

k. Ensure detailed information regarding occurrences with each CPERS is recorded accurately on each CPERS' record relating to any:

- o incidents;
- o deprivation of sight;
- o use of hearing protection;
- o food;
- o prayer;

- o stops (planned/unplanned); and
- o anything else deemed necessary/relevant.

8B.11. **Handover of captured persons.** When handing over CPERS, the following list of tasks needs to be completed.

- a. All documentation is present and correct and handed over to the relevant responsible personnel receiving the CPERS.
- b. CPERS are still correctly segregated in groups, for example, males, females, juveniles, and vulnerable CPERS.
- c. All CPERS' personal possessions and evidence is handed over correctly.
- d. Any injured or vulnerable CPERS are highlighted to the personnel receiving the CPERS.
- e. A full brief is given to receiving personnel regarding any incidents, allegations of abuse/mistreatment and feeding of CPERS.

8B.12. **Other considerations.** The following list of tasks also needs to be considered by the escort commander.

- a. If CPERS are being deprived of their sight or hearing, the sensory deprivation must be kept necessary, strictly to a minimum period of time required, and the CPERS must be told in a language they understand the reason for their sensory deprivation.
- b. For lengthy journeys consideration must be given to planned rest stops, feeding CPERS and exercise/prayer time.

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Notes

8B



# Chapter 9

Chapter 9 provides the direction that is to be followed at the unit holding area and the collection point. It includes the documentation to be completed and submitted at these stages of the CPERS handling process. The basic principles and standards of treatment outlined in Chapter 2, will apply to CPERS at both of these facilities.

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“

The underlying principle governing treatment of CPERS is one of equivalence; for example, if, due to low temperatures, our Armed Forces are provided with additional cold weather clothing, the same should be made available to CPERS.

”

## Chapter 9

# Unit holding area and collection point

## Section 1 – Introduction to the unit holding area

9.1. After the point of capture, the next point within the captured persons (CPERS) handling chain will usually be the unit holding area. As soon as possible (within the limitations of the tactical situation) the sub-unit escort must move CPERS to the unit holding area, and then on to the collection point or CPERS holding facility. Moving and escorting CPERS is covered in detail in Chapter 8. Despite the overriding principle of moving CPERS through the handling chain as quickly as possible, depending upon the type of operation and particular environment, it is possible that CPERS may be required to spend a significant period of time in the unit holding area. Guidance on the timings can be found in Chapter 6, Section 3. Authorisation from the chain of command (and ultimately the Detention Authority) must be sought to hold CPERS at the unit holding area beyond the 12 hour limit. Accordingly, our UK Armed Forces at the unit holding area must make proper provision for the safety, treatment and administration of CPERS. Annex 9A gives an example of a unit holding area planning tool.

9.2. Each unit must produce and display detailed standing orders for running a unit holding area. Such orders must comply with this publication and any theatre standing orders.<sup>342</sup>

9.3. Unit holding area staff must ensure that CPERS are closely guarded at all times to prevent conversation amongst them. If necessary they should move or separate CPERS to prevent conversations and hand them over to the relevant intelligence body for interrogation as soon as possible (see Chapter 11). It is unlikely that interrogation will occur at this location and, therefore, the unit holding area staff should make every effort to move those CPERS selected for interrogation to the intelligence exploitation facility as soon as possible. This will greatly improve the chances of successful exploitation.<sup>343</sup>

342 See Chapter 2, Section 1 and Annex 2A for further details on standing orders.

343 See Chapter 2, Section 1 for details on self-induced pressures.

9.4. Unit holding area staff must ensure that the handing over of CPERS (and any associated material recovered with them) to intelligence staff is documented on detailed captivity records to ensure their progress through the J2 chain is monitored and to safeguard evidence continuity for any future criminal prosecution.

## Section 2 – Staffing of the unit holding area

9.5. The officer in charge of the unit holding area is directly accountable for its command and control and the detailed captivity arrangements, including the humane treatment of CPERS. The duties and responsibilities of the unit holding officer are at Chapter 4, Section 3.

An officer must be placed in charge of the unit holding area.

9.6. Staffing requirements will depend on the variables of the theatre and operation, but should include the following as a minimum.

- a. **Provost Branch personnel.** While it is unlikely that there will be sufficient Military Provost Staff in theatre to complement unit holding areas, commanders should consider their use as part of their planning, particularly for large pre-planned operations. Service police may be available to transport and process high value CPERS and associated evidence for eventual criminal proceedings. They will be able to collate evidence linked to a suspect and gather the necessary evidence required to support any criminal proceedings. The evidence of the unit involved in the capture of an individual is critical. If the Service police are unavailable, commanders should consider using Unit CPERS Coordinator Course-trained personnel to ensure the correct handling and documentation of evidence.
- b. **Unit CPERS Coordinator Course-trained personnel.** Most units will deploy with personnel who have completed the Unit CPERS Coordinator Course. Commanders should ensure that their specialist knowledge is used to good effect in the unit holding area, although it should be recognised that they are not a substitute for the Military Provost Staff or the Service police.

c. **Medical support.** Medical staff will provide medical care to CPERS according to need. Unit holding area staff are to ensure that CPERS have access to unit medical facilities if required.<sup>344</sup>

d. **Intelligence staff.** Unit holding area staff must bring CPERS who may have intelligence of value to the attention of the intelligence officer as soon as possible. The J2 chain must evaluate any materiel or documentary intelligence collected. Only qualified and trained personnel are to carry out tactical questioning or interrogation.<sup>345</sup> Unit holding area administrative staff must record details of any CPERS (and their associated materiel, property and records) who are handed over to the J2 staff. It is essential that continuity of associated materiel is maintained to assist the intelligence gathering process.

e. **Interpreters.** The officer in charge of the unit holding area should ensure that sufficient interpreters are available.<sup>346</sup>

## Section 3 – Constructing a unit holding area

9.7. Unit holding areas may either be constructed in the field or, more usually, situated at a unit headquarters location. They may be based on existing structures or be purpose-built.<sup>347</sup> The level of security of the unit holding area must be appropriate to the location and the level of protection afforded to the CPERS must be at least equivalent to that afforded to our Armed Forces in that location. Examples of the layout of both types of unit holding areas can be found at Annex 9B. The following checklist covers both the principles and practicalities of accommodation for unit holding areas when designing and constructing a unit holding area.

.....  
344 See Chapter 3 for full details on medical treatment.

345 See Chapter 11.

346 See Chapter 6, Section 1.

347 Shipping containers could be suitable if modified for the environment. Advice must be taken from the Force Provost Marshal and legal adviser.

Serial	Factor	Complete
1	Planning factors and principles of designing a CPERS holding facility, as set out in Chapter 6, Section 4, have been used.	
2	Basic standards and requirements will be provided for CPERS as set out in Chapter 2, Section 1.	
3	Appropriate staff have been appointed in accordance with Chapter 4, Section 3.	
4	The unit holding area has been designed to ensure CPERS are held safely, securely and humanely.	
5	Where practicable, efforts are being made to improve infrastructure, medical and logistical support.	
6	Policies, practices and procedures are, and will continue to be, periodically reviewed.	

9.8. The underlying principle governing treatment of CPERS is one of equivalence;<sup>348</sup> for example, if due to low temperatures our Armed Forces are provided with additional cold weather clothing, the same should be made available to CPERS. Likewise, the levels of protection from enemy action afforded to CPERS should be at least the equivalent as those for our Armed Forces. Special consideration, however, should be granted regarding the treatment of women, children, juveniles or other vulnerable CPERS.

9.9. Once a unit holding area has been built, a MOD Form 2300C, Unit holding area certificate<sup>349</sup> must be completed by the designated detention officer and inserted into the daily occurrence book for reference.

Wherever possible, CPERS will be given basic provisions to an equivalent standard as those received by our Armed Forces.

## Section 4 – Searching

9.10. CPERS should already have been searched at the point of capture but a further, more detailed search must be conducted by the unit holding area staff on arrival at the unit holding area. Principles governing the conduct of searches are set out in Chapter 7, Section 2.

348 The principle of equivalence is also set out in Chapter 2, Section 1.

349 See Annex A, Section 3.

9.11. **Intimate searches.** Intimate searches are searches of body cavities and orifices – they must not be conducted unless they have been authorised by the Force Provost Marshal. The Force Provost Marshal, having received medical and legal advice, should stipulate in theatre orders the above description of an intimate search and the circumstances in which intimate searches may be conducted. Where an intimate search has been authorised, the Theatre Medical Director must be informed. Intimate searches will only be carried out under appropriate supervision:

- after the reason for the search has been explained to the CPERS;
- by staff with appropriate medical competencies; and
- within a suitably equipped medical facility.

## Section 5 – Categorisation and segregation

9.12. The process of categorising and segregating CPERS should be developed from the point of capture. The same categories and rules for segregation will apply at the unit holding area as at point of capture – see Chapter 7, Section 5. As CPERS may remain in a unit holding area for several hours, it is essential that our Armed Forces comply with the legal requirements of segregation and, therefore, unit holding area staff must give consideration to the logistical implications of segregation and the availability of space. In addition to the categorisation and segregation already set out at the point of capture, unit holding area staff should, where appropriate, in light of numbers and time constraints, give consideration to the further segregation into groups. For example, for:

- prisoners of war only, officers, non-commissioned officers and other ranks;



An aerial view of a unit holding area with segregated compounds

- influential leaders, ethnic or religious groups;
- dangerous CPERS;
- vulnerable CPERS; and
- families, women and children.

Living conditions in segregated units should allow for meaningful human interaction.

## Section 6 – Documentation

9.13. The aim of this stage in the documentation process is to ensure the clear and easy identification of the CPERS through the recording of their capture number and to bring them into the CPERS handling chain.<sup>350</sup> At the same time, CPERS must be linked to any documentation or equipment captured with them that may be of intelligence value and/or to preserve evidence to support any subsequent criminal proceedings. CPERS and their associated materiel, property and records must be processed by the unit holding area administrative staff. As with the requirements for documentation at the point of capture, effective and appropriate information management is essential at the unit holding area. For more information see Chapter 7, Section 3.

9.14. Our Armed Forces may, depending on the nature of the operation, be legally required to ensure that accurate records and returns are submitted to the Prisoners of War Information Bureau and the Civilian Bureau, as well as to the Central Tracing Agency in an international armed conflict and also, as a matter of policy and practice, to the International Committee of the Red Cross (ICRC) in a non-international armed conflict. Such forms will be dependent on the information compiled throughout the CPERS handling process.

9.15. Circumstances may require that some of the documentation originating from the point of capture will be completed by unit staff at the unit holding area where CPERS are brought following their capture. Where very large numbers are involved, the process may be devolved to sub-unit level. Once at the unit

.....  
<sup>350</sup> A capture number is a temporary number allocated by the capturing unit. It will be replaced with an internment serial number on admission to the CPERS holding facility. See Annex 10B.

holding area, its administrative staff must complete the CPERS documentation and expand upon information taken at the point of capture. The unit holding area staff are therefore responsible for ensuring that the following documents are complete and accurate:

- initial capture report (Annex 7B);
- NATO group capture report (Annex 7C); and
- the property receipt (MOD Form 2300B<sup>351</sup>).

9.16. The unit is required to hold information on all CPERS to fulfil legal and policy requirements and obligations. As a minimum, the following information must be documented:

- name, date of birth and nationality;
- reason(s) for capture; and
- details of Service personnel responsible for capturing the individual.

9.17. At this stage in the CPERS handling process it is necessary for the unit holding area administrative staff to begin completing the MOD Form 2300B, CPERS record, found at Annex A, Section 2 in respect of each CPERS. This is a detailed form which contains information regarding the circumstances of the capture, details of the CPERS and any property or evidence on their person, as well as details of the individuals who captured them. A copy of this form should be retained by the unit, and the original handed over to the next facility with the CPERS.

9.18. Our Armed Forces should ensure that all CPERS documents are moved with the CPERS as they are transported through the handling chain, with a copy retained at the unit headquarters.

9.19. **Evidential documentation.** If Service police are available within the unit holding area, evidential details should, where possible, be collated by them to provide the best possible continuity of evidence. Capturing personnel should expect to provide further information as the investigation proceeds, but collating as much detail as possible in the early stages is imperative. In the absence of Service police, details should be recorded and held by the unit holding area staff until such a time as the Service police wish to retrieve them. A copy of this document must be moved with the CPERS as they are transported through the CPERS handling chain.

.....  
351 See Annex A, Section 2.

## Property

9.20. Property recovered at the point of capture should have been correctly accounted for and documented by the capturing unit prior to its arrival at the unit holding area. Staff within the unit holding area must ensure property documentation is correctly completed before accepting CPERS.

9.21. Property should be categorised at the unit holding area as follows.

- a. **Evidential property.** Certain items of property may constitute evidence. Examples of evidential property are weapons used in the commission of an offence, stolen goods, drugs, money, mobile phones or clothing worn at the time of an offence. Evidential property should be tagged and documented by the capturing unit and handed over to the Service or host nation police as soon as possible so that it may be accounted for during any ensuing investigation. If the evidential property cannot be moved for any reason, consideration should be given to photographing it, making notes or a plan, or securing it in an alternative way. Advice should be sought as soon as possible from the Service police.
- b. **Contraband property.** Unit holding area administrative staff should ensure that contraband property not constituting evidence in its own right has been removed and accounted for. Weapons and drugs, for example, should be retained and disposed of in accordance with theatre instructions.
- c. **Personal property.** Personal property, such as clothing, jewellery and money, should be documented by the unit holding area administrative staff. Details of the owner should be attached to the property which should then be moved with that CPERS through the CPERS handling chain.
- d. **Retained property.** As detailed in Chapter 7, Section 2.

## Section 7 – The collection point

9.22. The Joint Task Force Headquarters will decide whether to establish a collection point at a particular formation level. Normally a collection point will only be required where there are large numbers of CPERS. A collection point is established to centralise the location of individual and small groups of CPERS and to consolidate them into larger groups to facilitate movement out of immediate danger and to the CPERS holding facility. Guidance on the time limits a CPERS should remain at the collection point can be found in Chapter 6, Section 3. This facility may be the first point at which interrogation will take place. If interrogation takes place, then tactical questioning should take place at a different location.

9.23. All the principles that apply for a unit holding area will also equally apply to a collection point including:

- providing the basic standards of treatment (Chapter 2);
- principles of design (Chapter 6, Section 4);
- having standard operating procedures;
- establishing governance measures; and
- sufficient staffing.

Collection points must be able to move with little or no notice.

9.24. **Siting.** The collection point(s) will be sited to meet the operational situation and the number required will depend on the overall size of the joint operations area. Proximity to a main supply route will speed up the evacuation process.

9.25. **Construction.** If feasible, collection points should be based on an existing building. This increases the shelter available for CPERS and reduces the need for engineer support to erect perimeter wire and overhead shelters. There is no formal design for a basic collection point, which must be built to suit the environment, weather and operational situation. Further guidance can be obtained from the Force Provost Marshal.

9.26. **Central collection points.** A large joint operations area may require a central collection point to be established to enable the CPERS to be consolidated further. A central collection point would be bigger than the basic collection point and, if not based on existing buildings, would require tentage to be erected. An example of the layout of a central collection point is at Annex 9C.

9.27. **Location, organisation and size criteria.** The criteria governing the location, organisation and size of a formation collection point are:

- it should be capable of holding the CPERS likely to be captured by that formation in a 12-hour period;
- CPERS should pass through as quickly as possible and not spend longer than 12 hours in it;<sup>352</sup>
- it should not be located in or adjacent to a location which may be an enemy target or objective to prevent unintended casualties, advice should be sought where possible;
- its manning should be based on the establishment of an existing formed unit or sub-unit, which is fully integrated into the CPERS handling organisation;<sup>353</sup> and
- it should be under tactical control of the formation within whose operational area it is deployed.

## Section 8 – Maritime capabilities for holding captured persons

9.28. Royal Navy's Book of Reference (BRd) 9622, *Detention of Captured Persons in the Maritime Environment*, should be referred to for the details concerning the practical application of operational detention and handling procedures for CPERS in the maritime environment. In the maritime environment the unit holding area will be situated on a UK vessel, where

.....  
352 If the time limit is to be exceeded, permission should be sought from higher authority.

353 This will include representation from Military Provost Staff.

CPERS will be held until they are transferred.<sup>354</sup> While a land unit holding area will normally hold CPERS for very limited amounts of time, the nature of the maritime environment (where large distances may have to be covered before a suitable transfer point is reached) may mean CPERS have to spend days rather than hours in a maritime unit holding area. While the level of facilities will vary between types of ship, the minimum standards and requirements set out in Chapter 2, Section 1 will be provided in all cases. Nevertheless, if it is anticipated that CPERS will be required to spend more than 24 hours on board a ship, the commanding officer of the vessel should seek in-theatre legal advice.

## Specialist personnel

9.29. In addition to the staff listed at Section 2 of this chapter, the following specialist personnel should be available to assist in CPERS handling on board a ship.

- a. **Royal Navy Police.** Royal Navy Police on board major warships (including frigates, destroyers, aircraft carriers, landing platform helicopter and landing platform dock) will be available to process all CPERS and any associated evidence.<sup>355</sup>
- b. **Intelligence staff.** While the majority of ships will not contain dedicated intelligence staff, the operations officer is responsible to the commanding officer for the collecting, reporting and disseminating intelligence information on board.<sup>356</sup> Both tactical questioning and interrogation may be authorised by the Chief of the Defence Staff to take place on board the ship. Specific instructions for individual maritime operations will be issued by Permanent Joint Headquarters or Navy Command in consultation with Ministry of Defence (MOD) policy staffs. The operations officer or a suitable subordinate should evaluate all materiel collected and decide if action needs to be taken prior to the handover of the CPERS. If material is discovered that could assist the intelligence gathering process, the operations officer should seek guidance from the appropriate headquarters as to its disposal.

.....  
354 Maritime unit holding areas are for temporary purposes only prior to transfer to a land facility or coastal state authorities. They are not to be used as places to intern prisoners of war. Geneva Convention III 1949, Article 22.

355 In the case of Royal Fleet Auxiliary vessels, assistance from Service police embarked on accompanying warships should be sought.

356 *The Queen's Regulations for the Royal Navy*, paragraph 1963(2).

## Design

9.30. Maritime units use a purpose built prefabricated unit holding area, erected as required and constructed from steel. The full construction specifications can be found in BRd 9622, *Detention of Captured Persons in the Maritime Environment*.

9.31. Maritime units deploying to areas where it is likely that CPERS activities may be conducted should ensure that the unit holding area is constructed prior to departure from the UK and that Provost Marshal (Army), as the Defence subject matter expert, is notified through Provost Marshal (Navy) in sufficient time that Provost Marshal (Army) can conduct an inspection prior to sailing.



Unit holding area on board a warship

## Annex 9A

# Unit holding area planning tool

<b>Design</b>	<ul style="list-style-type: none"> <li>• Location (ground/proximity to own activity/existing estate)</li> <li>• Logistical access</li> <li>• Size</li> <li>• Duration of occupancy</li> <li>• Available assets</li> </ul>
<b>Protection</b>	<ul style="list-style-type: none"> <li>• Environment</li> <li>• Hostility or further harm</li> <li>• Media/public curiosity</li> <li>• Segregation</li> </ul>
<b>Routine</b>	<p><b>CPERS</b></p> <ul style="list-style-type: none"> <li>• Food (greater than four but less than ten hours apart – paragraph 2.11b)</li> <li>• Sleep and rest (at least eight hours per 24-hour period – paragraph 2.11g)</li> <li>• Purposeful activity and exercise<sup>357</sup></li> </ul> <p><b>Unit holding areas</b></p> <ul style="list-style-type: none"> <li>• Security</li> <li>• Exploitation</li> <li>• Records of captivity</li> <li>• Standing orders (Annex 2A)</li> </ul>
<b>Individual rights</b>	<ul style="list-style-type: none"> <li>• To be treated humanely in accordance with the law and policy</li> <li>• Access to the International Committee of the Red Cross</li> <li>• Religious practice</li> <li>• Right to complain</li> <li>• Right to exercise</li> </ul>
<b>Medical</b>	<ul style="list-style-type: none"> <li>• Medical examination within four hours of capture (paragraph 3.9a)</li> <li>• Must be examined by a medical officer prior to interrogation (paragraph 3.9)</li> <li>• Unrestricted medical treatment</li> <li>• Sanitation/medical officer inspections of unit handling areas</li> <li>• Detainee medication</li> </ul>
<b>Equipment</b>	<ul style="list-style-type: none"> <li>• Clothing</li> <li>• Water</li> <li>• Personal protection</li> <li>• Bedding, if required</li> </ul>
<b>Responsibilities</b>	<ul style="list-style-type: none"> <li>• Detention officer</li> <li>• Unit holding officer</li> <li>• Detention sergeant</li> <li>• Guard force</li> </ul>

<sup>357</sup> This is mostly relevant for maritime operations where the timeline is more likely to be exceeded.

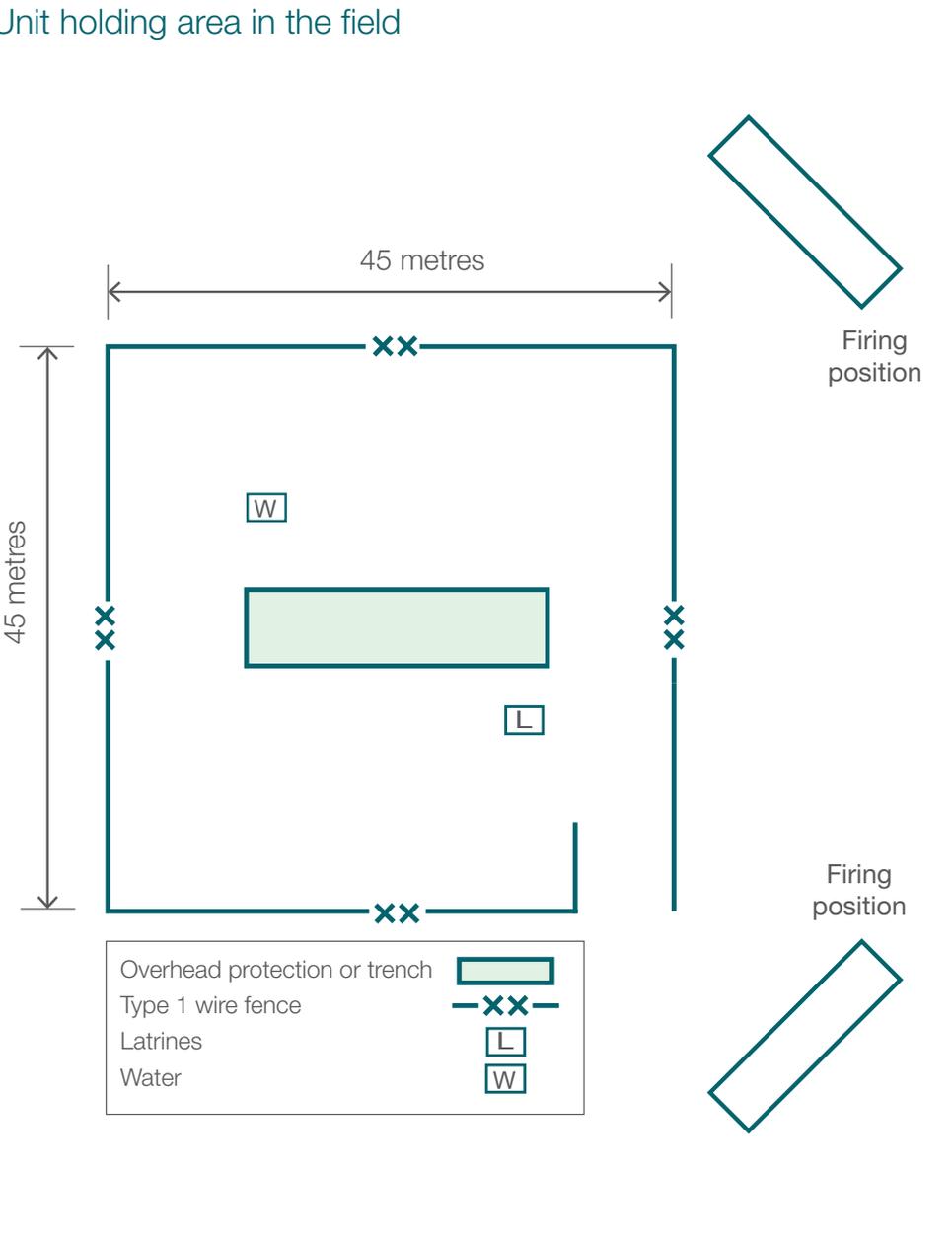
## Requirements

Serial	Factor	Complete
1	Planning factors and principles of design of a captured persons (CPERS) holding facility as set out in Chapter 6, Section 4 have been used.	
2	Basic standards and requirement will be provided for CPERS as set out in Chapter 2, Section 1.	
3	Appropriate staffs have been appointed in accordance with Chapter 4, Section 3.	
4	The unit handling area has been designed to ensure CPERS are held safely, securely and humanely.	
5	Where practicable, efforts are being made to improve infrastructure, medical and logistical support.	
6	Policies, practices and procedures are, and will continue to be periodically reviewed.	

Annex 9B

# Examples of the unit holding area layout

Unit holding area in the field



9B

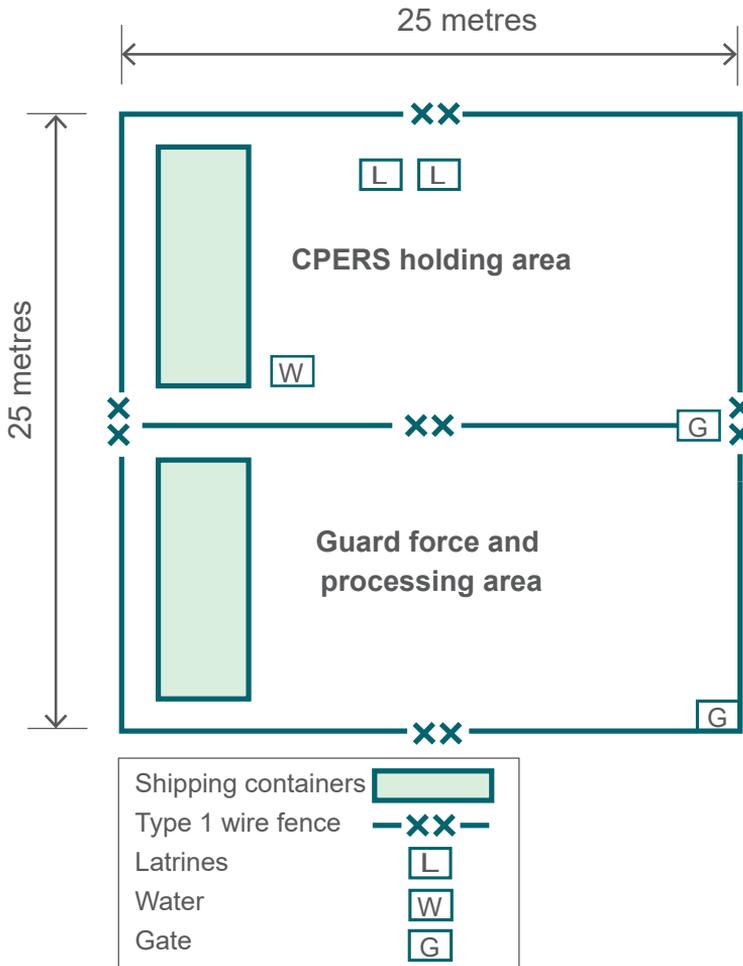
## Construction details

1. **Personnel.** One non-commissioned officer and ten other ranks.
2. **Fence construction.** In accordance with *Military Engineering*, Volume II, Pamphlet No 3, Obstacles, Annex D. Note: the perimeter fence consists of four 45 metre sections, each containing six concertinas.
3. **Timings.** To construct perimeter wire fence, Type 1, under average conditions, it will take approximately:
  - 1 hour 15 minutes by day; or
  - 2 hours 30 minutes by night.



An example of a unit holding area in the field; note the shelter from the elements, trench latrine and cover from indirect fire

Unit holding area in a headquarters location



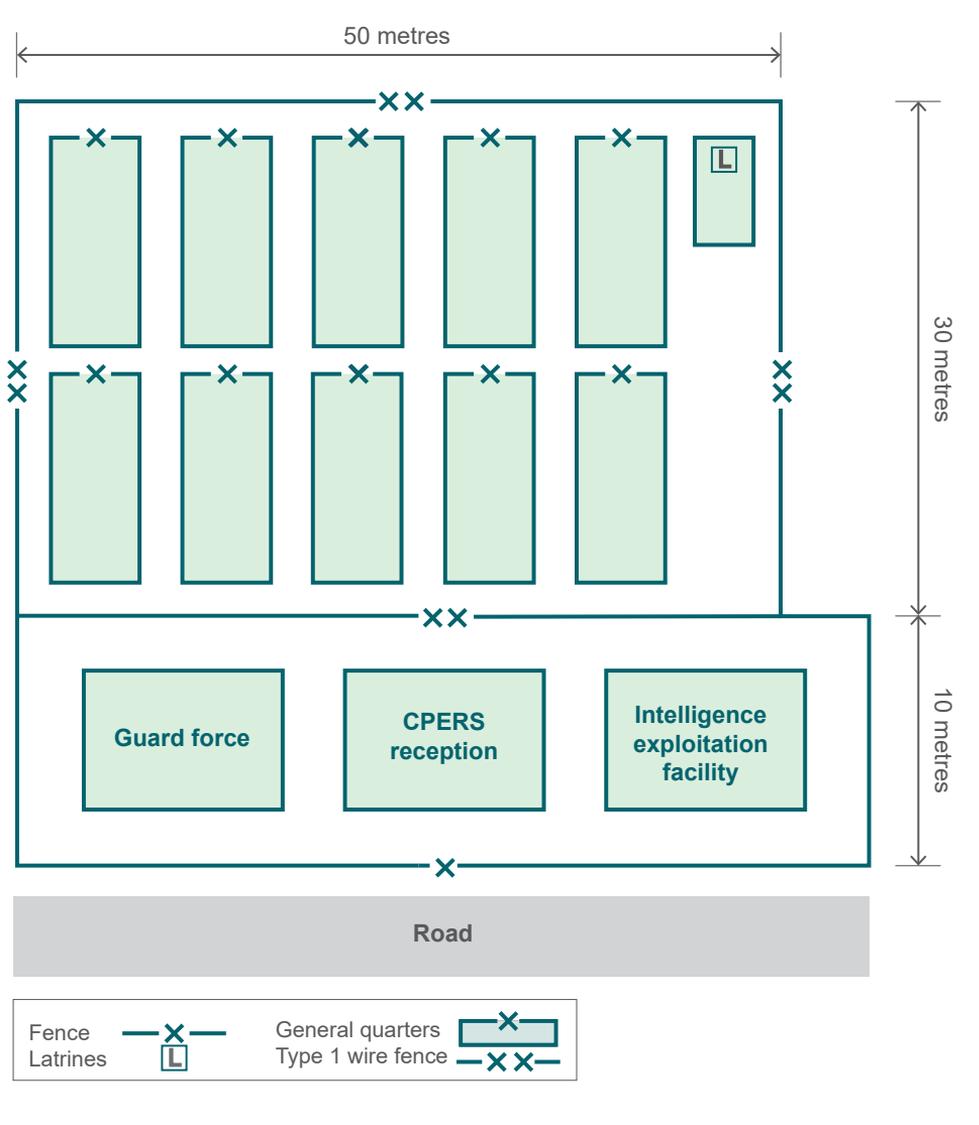
9B

Notes

9B

Annex 9C

# Example of a central collection point (200 captured persons) layout



9C



# Chapter 10

This chapter focuses on the running of, and best practices for, the CPERS holding facility. The design of the facility and planning considerations, including guidance on timings, were addressed in Chapter 6.

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“

Information posters must be displayed in prominent positions throughout CPERS detention facilities to inform CPERS of their rights and remain a visual reminder of their rights.

”

## Chapter 10

# The captured persons holding facility

## Section 1 – Captured persons holding facility management

10.1. As with every stage of the process, the standards of treatment set out in Chapter 2 will apply in the captured persons (CPERS) holding facility, and may even be enhanced at this stage. As CPERS may remain at this facility for lengthy periods of time, the commandant must ensure that CPERS are afforded the best possible treatment. Furthermore, the CPERS holding facility must maintain the highest possible standards of health and hygiene. Disease is a significant threat when holding CPERS and, if it breaks out in a facility, this will lead to a considerable burden in managing it. Further guidance on this area and the standards to be maintained is set out Chapter 3, Section 5.

a. All CPERS are required to be clearly informed of their rights as soon as it is practicable upon arrival at a detention facility. They should also be informed of the rules and practices in the facility. As a minimum, this must include informing CPERS of the reason for their detention and a clear explanation (in a language that they understand) that they will be treated fairly and humanely in accordance with the Law of Armed Conflict. It must also be explained to them that any applicable human rights obligations will be respected.

b. Information posters must be displayed in prominent positions throughout CPERS detention facilities to inform CPERS of their rights and remain a visual reminder of their rights. Such information shall include (as a minimum) the CPERS right to:

- o contact the International Committee of the Red Cross (ICRC);<sup>358</sup>
- o see a doctor;<sup>359</sup> and

.....  
358 Annex 4B shows an example.

359 See Annex 3B.

- o make a complaint.<sup>360</sup>

Furthermore, a member of the detention facility staff (using an interpreter if necessary) should explain all such rights to the CPERS in a language that they understand. Once the CPERS has had such an explanation, the detention staff should request the CPERS to sign and date a declaration that acknowledges that they have been informed of their rights. This declaration shall be countersigned and dated by the member of the detention staff (and the interpreter, if one is used) who gave the explanation. If the CPERS is unable to sign their name, they must have the process explained to them and then be invited to record their acknowledgement by providing their finger or thumbprint as a substitute for the signature. Such substitute signature should also be countersigned as above. This process must be repeated each time the CPERS is reminded of their rights. This reminder should coincide with any review of the reasons for their continued detention and the communications of the reasons for it.

10.2. Failure to run a CPERS holding facility to the highest standards may lead to disorder, ill discipline, escapes and potential criminal liability. Visits and inspections as outlined in Chapter 4, Section 4 will contribute to ensuring that the highest possible standards are maintained.

**It is essential that every CPERS holding facility has a clear chain of command, with good levels of governance and strong leadership.**

10.3. The intelligence exploitation facility is a separate facility to the CPERS holding facility, but can be collocated. Each should have its own separate and distinct chain of command. Separate and distinct governance regimes apply to CPERS during detention and during tactical questioning or interrogation. This is to ensure a proper separation of function between the two disciplines, which will mitigate the risk of the detention regime being used to prepare or influence CPERS ahead of questioning. Tactical questioners and interrogators are responsible for the well-being and humane treatment of CPERS during tactical questioning and interrogation sessions; the guard force or detention staff are responsible at all other times. Both these regimes report separately through distinct chains of command to the Ministry of Defence (MOD) Operations Directorate. For further details on the intelligence exploitation facility see Chapter 11.

.....  
<sup>360</sup> See Annex 2B.

10.4. While every effort has been made to ensure segregation and categorisation of CPERS from point of capture through to the unit holding area, it is essential that at this stage of the CPERS handling process CPERS are categorised and segregated to ensure that they are accommodated and administered appropriately. Living conditions in segregated units should allow for sufficient meaningful human interaction and not result in solitary confinement.

10.5. The principles of successful CPERS holding facility management apply to all CPERS holding facilities and intelligence exploitation facilities.<sup>361</sup>

### Core principles of CPERS holding facility management

Humane treatment  
Security  
Good order  
Discipline

## Section 2 – Humane treatment

10.6. Our UK Armed Forces must treat all CPERS humanely in all circumstances and at all times. For further detail see Chapter 2. When a CPERS is first admitted into a CPERS holding facility, the treatment they receive at that point is an indication of what is likely to follow. It is important that staff treat every CPERS on admission with dignity and respect, regardless of their status or demeanour. Every CPERS, upon admission, shall be provided with written information and a verbal briefing (in a language they understand) about the:

- regulations governing the treatment of CPERS;
- disciplinary requirements of the facility;
- authorised methods of seeking information and making complaints; and
- all matters necessary to enable them to understand both their rights and their obligations and to adapt them to life in the facility.

If a CPERS is unable to read, all relevant information should be conveyed to them by an interpreter.<sup>362</sup>

.....  
361 See Chapter 11.

362 In the absence of suitable interpreters, consideration should be given to providing such information through audio or visual recordings.

Every CPERS should understand their rights and obligations in the CPERS holding facility.

## Section 3 – Security

### Dynamic security

10.7. Dynamic security is a term used by custodial professionals to describe the synergy that occurs when all the elements of sound custodial practice come together. Dynamic security encompasses the following.

- a. **Security procedures.** CPERS holding facility staff must account for individuals and conduct random but frequent searches, including searches of accommodation, communal areas and what CPERS may have on them.
- b. **Physical security and equipment.** Appropriate walls, fences, locks, bolts and bars, security lighting, alarms and surveillance devices, such as motion detectors and closed circuit television (CCTV), are required. Airport-style security archways and scanners may be needed to assist in searching visitors. The full range of public order equipment must be available and guards properly trained in its use to deal with disturbances.
- c. **Assessment procedures.** CPERS holding facility staff must categorise CPERS and conduct regular risk assessments to ensure that individuals are held in appropriate security conditions. They must segregate extremists or insurgents from other CPERS. However, such segregation should not lead to solitary confinement. Inaccurate assessments of CPERS can result in the injury or death of other CPERS, contribute to insurgent recruitment or cause public order issues for the guard force. J2 advice will be necessary in making appropriate risk assessments.<sup>363</sup>
- d. **Passive intelligence gathering.** Passive intelligence gathering provides staff with an opportunity to anticipate any premeditated disturbances and to pre-empt breaches of discipline. It is also useful in

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<sup>363</sup> International Committee of the Red Cross (ICRC), '[Radicalization in detention – the ICRC's perspective](#)', 11 July 2016.



Example of high fencing and tamper-proof security lighting with CCTV

identifying and dealing with abuse and bullying, can assist in preventing suicide or self-harm, and can provide input into the J2 picture. Successful passive intelligence gathering relies on the facility staff knowing those in their charge and building up a picture over time of things such as leadership dynamics within the CPERS population and the interplay between any factions that may exist.

e. **Behavioural awareness.** CPERS holding facility staff should monitor CPERS, both individually and as a collective, to identify marked changes in mood, attitude and conduct. Such changes should be reported up the chain of command. This may defuse tensions before they become problems that could lead to serious disturbances.

f. **Consistent and respectful treatment.** It is vital that all staff are consistent and fair in their treatment of CPERS. Inconsistencies can lead to passive or aggressive acts by the CPERS. This could lead to concerted disorder that may manifest itself in many ways. CPERS may attempt to isolate staff and look for weaknesses in the consistency of staff approach. Facility staff must always be cognisant of the fact that detainees may attempt to manipulate the routine by manipulating staff themselves. Staff must remain professional at all times and avoid any form of favouritism or victimisation; they must treat CPERS with respect for their human dignity at all times. Holding facility staff must always remain proactive in their approach to detention and not reactive; consistent and respectful treatment reduces the likelihood

of disorder occurring. Any inconsistencies in the CPERS regime or treatment of CPERS may be exploited by the CPERS. The simplest of such changes can quickly become the focus for CPERS disquiet, resulting in unnecessary and avoidable complaints being received or CPERS attempting to exploit or condition members of the guard force or interpreters.

g. **Purposeful activity.** Providing CPERS with opportunities for exercise, education and other positive regimes is not only humane but has the added benefit of dissipating their energy and deflecting their minds away from the circumstances of their incarceration, thus enhancing safety and security. It can also equip CPERS with the life or job skills necessary for successful reintegration into society.<sup>364</sup> Experience has shown that bored CPERS, without access to purposeful activities, quickly become focused on petty matters that can have inflammatory effects out of all proportion to their real significance. Purposeful activity can be provided in the form of recreational facilities such as sports and games, education and work.<sup>365</sup> In addition, holding facility staff should ensure that CPERS keep their own quarters clean and in a hygienic state. Family and other visits and regular access to the canteen are other methods for establishing routine and preventing boredom.<sup>366</sup> To achieve campaign coherency, it is essential that commanders identify and properly resource those measures that allow for purposeful activities and thus assist the reintegration of CPERS as contributing and productive members of society upon their release.

h. **Safety.** Staff must ensure that CPERS, especially the most vulnerable, are held safely. Equally, CPERS holding facility staff must also be afforded a safe working environment.

## Longer-term detention

10.8. There are many factors that commanders must consider for the longer-term detention of CPERS. This may include:

- informing the CPERS that they are subject to a longer-term detention regime;

364 See Chapter 12, Section 3 for the benefits that purposeful activity can have on reintegration.

365 Prisoners of war can be employed, but internees and non-sentenced detainees may not be forced to work. Further details are contained in Annexes 10D and 10E.

366 See also paragraph 6.38.

- formally informing the CPERS' legal adviser, if required;
- assessing the well-being of the CPERS, which may include a physical and psychological assessment;
- asking the CPERS (which would be best practice) to consider their physical, spiritual and material needs;
- producing a longer-term detention plan and reviewing it periodically (the Force Provost Marshal and Military Provost Staff would be responsible for the plan);
- facility Military Provost Staff maintaining a comprehensive longer-term detention management record (this is imperative); and
- ensuring there is a purposeful and meaningful regime of activity, which is essential for the CPERS – this may include family contact, family visits, education programme, cultural activities, selected television/DVD/radio programmes, exercise and interaction.

## Maximum security

10.9. CPERS should be subject to security measures which are commensurate with the requisite care and control. Staff should only confine individuals to maximum security conditions where the risk assessment shows them to pose such a threat to safety and security that the commandant of the CPERS holding facility has no other choice. A CPERS should not be kept in such conditions for prolonged or repeated periods, as this is a measure that may affect both the physical and psychological integrity of the individual. Excessively applying these conditions could amount to mistreatment. Individuals may be placed into maximum security segregation if they pose a danger to others or themselves.<sup>367</sup> In such cases, the matter must be reported to the medical staff and an alternative range of actions must be considered.<sup>368</sup>

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 367 Where possible, CPERS should be managed within the general population. However, this may not always be possible due to a lack of compliance, disciplinary reasons or simply that the CPERS require additional support and/or protection. Therefore, CPERS holding facilities should, where possible, have a CPERS accommodation that can be used to segregate (this may be facilitated in either multi-occupancy accommodation or single occupancy) CPERS from the general population. However, CPERS held in such conditions should, where possible, undergo a purposeful regime. Additional daily safeguards would include exercise (one to two hours daily), visit by a medical officer, three meals (the same food as the general population is given) and access to water.

368 For example, counselling may be an alternative if available and practical.

10.10. Individuals placed under maximum security restrictions will usually be subject to an enhanced searching regime to make sure that they are not carrying contraband items, items which can be used in escape attempts, or items which could be used to injure other people or themselves. The intensity and frequency of such searches will vary according to circumstances. Commandants of CPERS holding facilities should introduce additional security measures to manage violent, disruptive or otherwise dangerous individuals. Such measures should safeguard against the possibility of coercion being applied to staff and may include the regular rotation of staff to reduce the risks of pressure being applied to them by the CPERS. Searches, including of staff who come into contact with such individuals, may be necessary. In addition, medical staff are to conduct inspections of those individuals placed under maximum security restrictions every 24 hours.<sup>369</sup>

### Searches

10.11. The principles for conducting searches, including intimate searches, are explained in Chapter 7, Section 2 and Chapter 9, Section 4. Commandants must issue a clear set of procedures that describe, in detail, the circumstances in which searches should be carried out, who may conduct searches, the methods to be used and their frequency. The procedures should cover the regular search of all places where CPERS live, work or congregate, including living accommodation, such as cells and dormitories, to make sure that security features, such as doors and locks, windows, grilles and floors have not been tampered with. The procedures should also ensure that the personal property of individuals is subject to random searches. Staff must be specially trained to carry out these searches in such a way as to detect and prevent any escape attempt, or secretion of contraband, while at the same time respecting the dignity of the person and showing respect for their personal possessions, in particular religious artefacts. Searches should not be used to harass or victimise the CPERS and staff should allow the CPERS to be present whilst the search is carried out.

10.12. The type of search conducted will depend upon the circumstances. For example, when CPERS are moving in large numbers from their place of work back to their living accommodation, it is normal for staff to conduct security screening searches akin to those used at civilian airports. On other occasions, especially if there is reason to believe that CPERS may have something secreted about their person or when they are designated as high risk CPERS, staff will need to carry out a more detailed search. Guidance on intimate searches can be found in Chapter 9, Section 4.

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<sup>369</sup> See Chapter 3, Section 1 for guidance on a medical practitioner's role.

10.13. Procedures for searching visitors should take into account cultural sensitivities. In addition, when conducting searches, our Armed Forces must be sensitive to the needs of children, women and other vulnerable groups. The Joint Task Force Headquarters (JTFHQ) J9 (Legal) should approve the procedures for searching professional visitors (such as legal representatives, host nation representatives and doctors) to ensure a balance between security and the right of confidential professional access.

## Orders and immediate actions

10.14. CPERS holding facilities must have orders and immediate action plans that can be used in the event of an emergency situation including medical or other emergencies during the night. Direction on standing orders is found in Chapter 2 and Annex 2A and immediate action plans in the event of adverse incidents, including allegations of abuse involving CPERS, are provided in Chapter 13 and Annex 13B.

10.15. Immediate action plans must also be produced to respond to unrest within the CPERS community, including riot and attempted escape. These are to be prepared in consultation with Permanent Joint Headquarters (PJHQ) and Headquarters Provost Marshal (Army) and should include personnel and equipment requirements to respond to this type of CPERS behaviour and actions.

## Using interpreters

10.16. Interpreters will be essential at a CPERS holding facility. Further guidance can be found in Chapter 6, Section 1.

# Section 4 – Discipline

## General

10.17. Discipline within a facility is necessary, not only to ensure that CPERS do not escape, but also to enable the establishment of an appropriate detention environment as required by the Geneva Conventions and other laws. Well-ordered facilities need to operate within a set of rules and regulations that are clear, fair and just. The effect will be to protect the staff, the CPERS and the reputation of our Armed Forces. By their nature, CPERS holding facilities and the compounds within them are closed institutions in which large groups of people are held against their will in confined conditions. It is inevitable that

some CPERS (and the staff) will break the rules and regulations. Physical attacks, theft, refusal to follow a daily routine, disobeying legitimate reasonable orders and attempting to smuggle contraband goods are likely transgressions.

Discipline must be applied consistently in an even-handed manner and never oppressively applied.

10.18. All CPERS should be subject to disciplinary rules and regulations.<sup>370</sup> The Geneva Conventions expressly authorise disciplinary jurisdiction over prisoners of war and internees in accordance with humane treatment and other relevant rules and regulations.<sup>371</sup> The authorisation for taking disciplinary action against detainees will emanate from the legal authority to capture and hold them, such as a United Nations Security Council resolution or host nation consent. PJHQ will issue guidance on any disciplinary procedures applicable to CPERS prior to deployment.

### Disciplinary rules and regulations

10.19. The CPERS holding facility must have discipline regulations and they must be made known to CPERS. These may differ depending upon the category of those being held, the operational environment and the specifics of the theatre. *UK Prison Rules* may be used as a basis for facility rules and the following list is a guide drawn from that publication.

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<sup>370</sup> The *Prisoners of War (Discipline) Regulations 1958* are now obsolete. New regulations will redrafted as required. The regime to be applied will be dependent on the category of the CPERS and the type of conflict.

<sup>371</sup> Geneva Convention III 1949 (GC III), Article (Art) 82; Geneva Convention IV 1949 (GC IV), Chapter VII.

**A CPERS is guilty of an offence against discipline if they succeed or attempt to do the following.**

- Commit any assault or battery.
- Detain any person against their will.
- Deny access to any part of the facility to any guard or any person (other than a CPERS) who is working there.
- Intentionally endanger the health or personal safety of others or, by their conduct, is reckless as to whether such health/personal safety is endangered.
- Intentionally obstruct a guard in the execution of their duty, or any person (other than a CPERS) who is at the facility for the purpose of working there, in the performance of their work.
- Escape or abscond.
- Administer a controlled drug to themselves, which has not been authorised by medical staff.
- Have in their possession any unauthorised article, or a greater quantity of any article than they are authorised to have.
- Sell or deliver to any person any unauthorised article.
- Take, or damage improperly, any article belonging to another person or the facility.
- Intentionally or recklessly set fire to any part of the facility, or any other property, whether or not it is their own.
- Destroy or damage any part of the facility or any other property, other than their own.
- Disobey any lawful order.
- Disobey or fail to comply with any rule or regulation applying to them.
- Receive any controlled drug or, without the consent of a guard, any other article, during the course of a visit.
- Incite another CPERS to commit, or assist another CPERS to commit or to attempt to commit any of the foregoing offences.

## Disciplinary proceedings

10.20. Only the CPERS holding facility commandant or the officer to whom they have delegated their powers, may take disciplinary action by way of a disciplinary hearing. The commandant must seek legal advice before any disciplinary proceedings are initiated against any CPERS, and they must ensure that breaches of discipline, particularly cases of escape and attempted escape, are investigated immediately. They must deal with offences committed in connection with an escape on a disciplinary basis and shall not regard the escape as an aggravating circumstance, even if it is a repeated offence.<sup>372</sup> The CPERS must be informed of the rules relating to the proceedings, possible sanctions and their rights.

10.21. The commandant will not confine a CPERS accused of an offence for which disciplinary punishment is contemplated, pending the disciplinary hearing, unless it is essential in the interests of order and discipline. The commandant should reduce any period spent by an individual in confinement awaiting a hearing to an absolute minimum. For disciplinary offences, as opposed to criminal offences, such confinement will not exceed 14 days. The commandant should ensure that confinement does not result in negative consequences on the physical or mental well-being of the CPERS. In addition, the same minimum standards of care should apply to a CPERS in confinement as those in the general CPERS population, for example, with regard to hygiene, food, water and access to a minimum of two hours exercise in the open air daily.

10.22. Medical staff will inspect all CPERS during any period of confinement (whether awaiting a hearing or as part of the sanction) every 24 hours.

10.23. In all cases the accused should be present at the hearing. The accused should hear the evidence as it is presented and should be entitled to question the staff member who is presenting the case. If an accused is not capable, for whatever reason, of defending themselves, they should be allowed to call another person to assist them. If there is any doubt, consideration should be given to taking advice from the detention facility doctor, legal adviser and Force Provost Marshal. If the case is a complex one or the possible punishment severe, the commandant should consider handing the investigation over to the Service police and providing the accused with legal representation.

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<sup>372</sup> GC III, Arts 92 and 93; GC IV, Art 120.

10.24. The commandant must ensure that there are a clear set of legitimate procedures for dealing with such incidents and that these regulations ensure the safety of the individual, both staff and CPERS. A CPERS holding facility must be secure, safe and well ordered with a consistency of approach, neither too harsh nor too liberal. The majority of CPERS will welcome firm and fair management by staff because where the staff are not in control, the resulting vacuum will be filled by strong-willed CPERS, often to the detriment of other CPERS. It is also critical that the regulations are applied from the commandant downwards; if command is weak, individual members of staff may resort to delivering their own unauthorised forms of control. The disciplinary procedure must not be so complex, unwieldy and bureaucratic that CPERS holding facility commandants are disinclined to use it. The disciplinary regime in a CPERS holding facility must be humane and must not include regulations that impose physical exertion that is brutal, dangerous to health or involve physical or moral victimisation.<sup>373</sup>

### Disciplinary sanctions

10.25. Before any disciplinary sanction is awarded, the commandant must give the accused full details of the offence and an opportunity to explain their conduct and to defend themselves. In particular, they must allow the accused to call witnesses and, if necessary, give them the services of a qualified interpreter. The Geneva Conventions provides specific direction on disciplinary sanctions that may be awarded to certain categories of CPERS.

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373 GC III, Art 89; GC IV, Art 100.

### Disciplinary sanctions

#### Prisoner of war<sup>374</sup>

- A fine which shall not exceed 50% of the advances of pay and working pay which the prisoner of war would otherwise receive under provisions of Articles 60 and 62 during a period of not more than 30 days.
- Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
- Fatigue duties not exceeding two hours daily.<sup>375</sup>
- Confinement.
- The duration of a punishment shall not exceed 30 days, even if the prisoner of war is answerable for several acts at the same time.
- Time spent in confinement prior to a disciplinary hearing shall be deducted from the award pronounced.
- The period between pronouncing an award of disciplinary punishment and its execution shall not exceed one month.
- There must be an interval of at least three days between the execution of any two punishments if the duration of one of them is ten days or more, when a further punishment is awarded.

#### Internees<sup>376</sup>

- A fine not exceeding 50% of 30 days' pay.
- Withdrawal for up to 30 days of any privileges granted over and above the minimum provided for by the Convention.
- Fatigue duties for up to 30 days, not exceeding two hours per day and connected with the maintenance of the camp.
- Confinement for not more than 30 days.

### Specific rules for sanctions

10.26. Disciplinary punishments will not be inhuman, brutal or dangerous to the health of CPERS. The Geneva Conventions impose specific restrictions in relation to sanctions or punishments. For all CPERS, the following are forbidden.

- Any form of torture or cruelty.

<sup>374</sup> GC III, Art 89.

<sup>375</sup> This shall not be applied to officers.

<sup>376</sup> GC IV, Art 119.

- Collective punishment for individual acts.
- Corporal punishments.
- Holding CPERS in a facility without daylight.
- The duration of any single punishment exceeding a maximum of 30 consecutive days, even if the CPERS is convicted of several breaches of discipline, whether connected or not.<sup>377</sup>
- Failure to allow an interval of at least three days between carrying out any two punishments if the duration of one of them is ten days or more, when a further punishment is awarded.
- A delay of more than one month between pronouncement and commencement of the punishment.
- Punishment more than once for the same offence.
- Different treatment of CPERS who have completed their punishment to CPERS of the same category; the only exception is the rule relating to special surveillance of CPERS who have attempted to escape.
- Reduction of food and water as a punishment.
- Use of restraints as a punishment.
- Sensory deprivation as a punishment (for example, deprivation of sight or hearing).
- In addition to the above, no prisoner of war may be deprived of their rank or prevented from wearing their badges; a prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to their rank.

10.27. The commandant must announce the decision on punishment in the presence of the accused and, where the CPERS is an internee, a member of the internee committee. Holding facility staff must retain a record of summary punishments awarded, which they are to file with the CPERS documents. The

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 377 GC III, Art 90; GC IV, Art 119.

commandant must also maintain a record of disciplinary punishments which they must make available for inspection by representatives of the protecting power or the ICRC.<sup>378</sup>

10.28. When a sanction is applied, either before or after a hearing and whether in connection with disciplinary or judicial proceedings, the commandant will allow individuals:

- a minimum of two hours exercise in the open air per 24 hours;
- to attend daily sick call, receive medical attention as needed, and if necessary be transferred to a hospital;
- to receive sufficient potable water and food of an appropriate type to maintain them in good health (religious and cultural implications should be considered);
- to confer with visiting representatives of the protecting power and the ICRC;
- to receive spiritual assistance;
- hygienic living conditions;
- adequate bedding, supplies and facilities necessary for personal cleanliness;
- if female, to be confined in separate quarters from males and, where practicable, to be under the immediate supervision of female staff; and
- for a hearing relating to a disciplinary offence committed while in captivity, the accused is to be afforded the opportunity for assistance from qualified legal counsel.<sup>379</sup> Advice concerning the practicalities of this should be sought from the legal adviser and PJHQ.

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<sup>378</sup> Chapter 4, Section 4.

<sup>379</sup> GC III, Art 99; GC IV, Art 72.

## Escapes

10.29. It is the natural instinct of most CPERS to attempt to escape from captivity. In many cases prisoners of war have a military duty to escape from captivity. Consequently, specific provisions, as set out in Geneva Conventions III and IV, apply to an escape by a prisoner of war or an internee.

a. **Successful escapes.** Prisoners of war who carry out a successful escape and who are subsequently captured again may not be punished for the earlier escape.<sup>380</sup> A prisoner of war is deemed to have carried out a successful escape in the following circumstances.

- o When they have rejoined their own armed forces or have reached the armed forces of an ally of their nation.
- o When they have left territory which is under the control of the UK or an ally of the UK.
- o When they have joined a ship flying the flag of their own nation or of an ally of their own nation which, although it may be in waters under the control of the UK, is not itself under the UK's control.

b. **Unsuccessful escapes.** Prisoners of war and internees who are involved in unsuccessful escapes are to be protected.<sup>381</sup>

- o A prisoner of war or internee who escapes and is recaptured before having completed a successful escape, as above, is only to be liable to summary punishment, even if it is a repeated offence.
- o A prisoner of war or internee who aids or abets an escape, or an attempt to escape, is only to be liable to summary punishment.
- o A prisoner of war or internee who commits offences with the sole aim of facilitating their escape and which does not entail any violence against life or limb are only to be liable to summary punishment.

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380 GC III, Art 91.

381 GC III, Arts 92-93; GC IV, Arts 120-122.

- c. If a prisoner of war or internee is subjected to trial by judicial proceedings as the result of an offence of violence against life or limb in the course of an escape, the fact of their escape or attempted escape (even if this is a repeated offence) is not to be considered an aggravating circumstance in the commission of the crime.
- d. Notification of the escape and recapture of a prisoner of war or internee is to be made to the Prisoners of War Information Bureau.<sup>382</sup>

### Preventing a breakdown in discipline

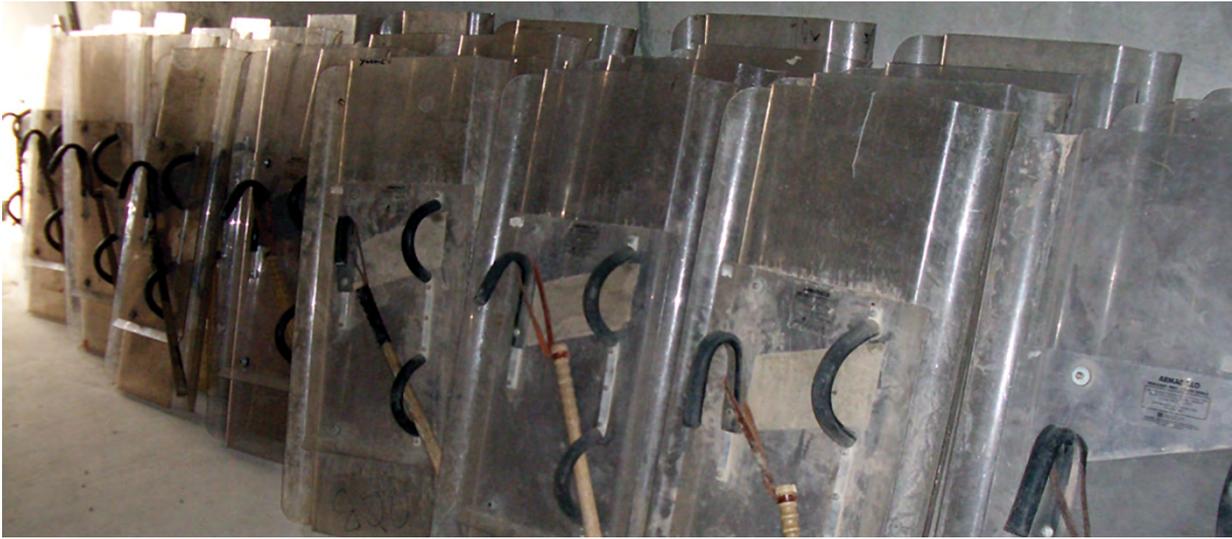
Prevention is better than cure.

10.30. It is rare that a major incident will occur without prior warning. In most cases there will be some indication of a build up of tension, whether at an individual or group level. This is where the benefits of dynamic security become apparent. On entering an accommodation block or working area where tension is apparent, a member of the guard should immediately be aware that something is wrong. They should be able to identify any CPERS who are unsettled or likely to threaten violence. It will be more difficult for CPERS who wish to create trouble to recruit others if the general approach of guard staff has been fair and consistent. Even where there is good dynamic security, however, there may be an outburst of individual or collective violence.

10.31. A positive method for managing violent and disruptive CPERS is to house them in small units of up to ten persons. This is called 'group isolation'. In these conditions it should be possible for professionally trained members of the Military Provost Staff to develop a strategy for dealing with even the most dangerous individuals. If logistics allow a maximum security area to be created, individuals should be able to move relatively freely within the group isolation units and to have a 'normal' routine.

10.32. Good relationships between staff and CPERS are an essential element of dynamic security and can be put to good effect in de-escalating potential incidents or in restoring good order through a process of dialogue and negotiation. Only when these methods fail, or are considered inappropriate, should staff consider physical methods of restoring order.

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382 GC III, Art 94.



Guard forces should be trained in public order and be properly equipped

## Managing a breakdown in discipline

10.33. In any CPERS holding facility, no matter how well run, there is always the potential for a breakdown in discipline.<sup>383</sup> The most common examples include:

- an individual attack on staff or other CPERS;
- a group revolt which may include rioting or hostage taking; and
- the smuggling of contraband goods.

10.34. Commandants should ensure that in every CPERS holding facility there is a clear set of procedures for dealing with such incidents, which should have been approved by J9 (Legal). Military Provost Staff, and the Royal Military Police who may be assisting them within the facility, will have been trained in the use of force in such circumstances and some may be trained in hostage negotiation.<sup>384</sup> Guard forces should be trained in public order and be properly equipped. Whenever there is a violent incident, or a CPERS has to be subdued, a senior member of staff should attend the scene as soon

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383 Although not usually a disciplinary issue, instances of deliberate self-harm may also occur.

384 Members of the Military Provost Staff are trained to Home Office standards in Prison Service use of force techniques.

as possible. A report should be prepared by the CPERS holding facility commandant and forwarded to the Joint Task Force Headquarters J1 Branch. For direction on action to take following an adverse incident involving CPERS see Chapter 13.

### Dealing with a breakdown in discipline

10.35. There may be occasions when, despite effective use of dynamic security, indiscipline occurs. Indiscipline may manifest itself in several forms, from passive protest through disturbances, to hostage taking; all of these situations should have contingency plans in place to deal with them.<sup>385</sup>

10.36. CPERS sometimes plan passive protests which tend to result from a perceived grievance. The key to unlocking such protests is for a member of staff to enter into a dialogue with the leader(s) of the protest, in a calm manner and, if possible, separate the leaders from the group so that talks can be conducted in private. It is at such times that dynamic security can pay dividends because staff should know the personalities of the leaders and exploit that advantage in talks. When confronted with a breakdown in discipline and CPERS disorder, custodial staff should always engage in dialogue with CPERS, usually via the senior member of the detainee population who has influence and control over the other CPERS, to de-escalate the situation, restore order and return to normal routine. This approach can be very effective, even when matters may appear to be out of hand. Notwithstanding that there may be occasions where escalation of force, in accordance with Figure 10.1, is necessary, positive engagement with detainees in an attempt to de-escalate the situation should always be the preferred approach. This will preserve the safety of staff and detainees alike.

10.37. Disturbances can be spontaneous or pre-planned. Pre-planned disturbances are potentially the worst type as CPERS are likely to have made and stockpiled home-made weapons and missiles. Searches and rotating of CPERS accommodation can be considered, as well as having good facility design and construction, as set out in Chapter 6. This will in most cases mean that the guard force has sufficient time to react in a planned manner. Staff should employ the use of force continuum, as set out in Figure 10.1.

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<sup>385</sup> Advice on contingency planning should be sought from the in-theatre Military Provost Staff or from Provost Marshal (Army) Custodial Branch.

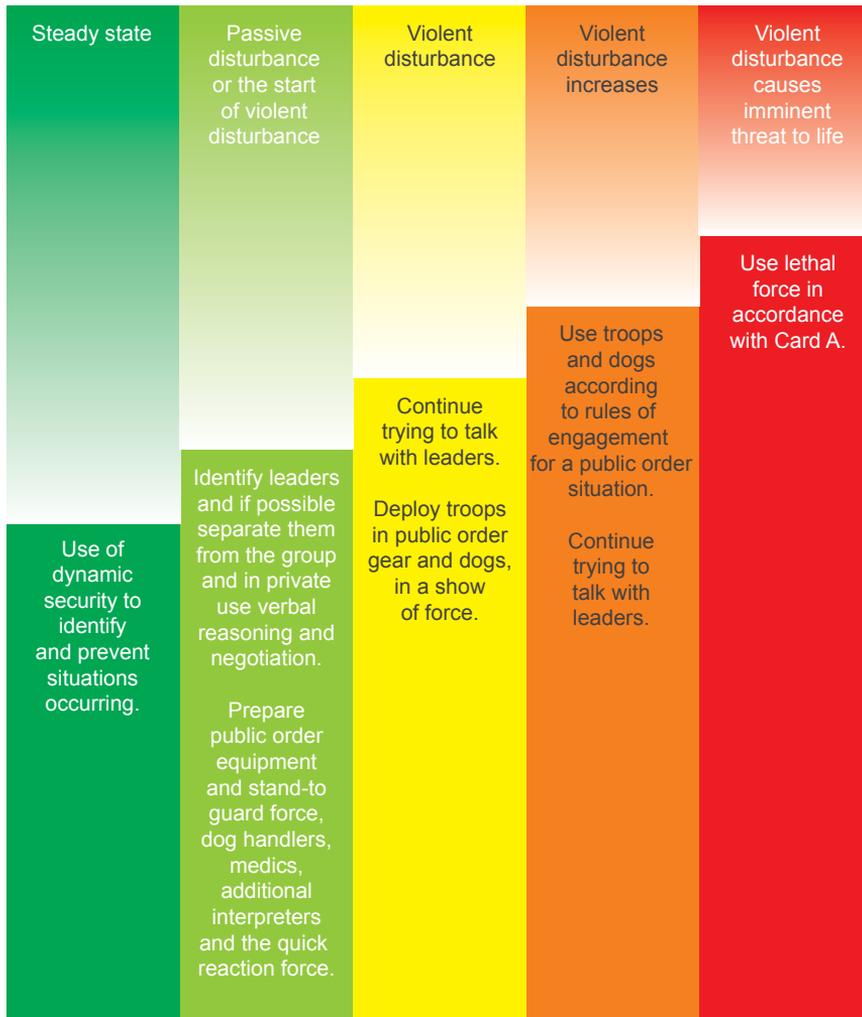


Figure 10.1 – The use of force continuum

10.38. Where the guard force is augmented with military working dogs and handlers, dogs should be used very carefully. While dogs can have a strong deterrent effect, experience has shown that it may vary with cultural differences and if they bite someone they can then act as a touchstone that draws the full violent attention of the crowd against them; the positive effect that dogs may have had can dissipate very quickly.

10.39. Pre-planned responses to dangerous scenarios must be trained. Should there be an imminent threat to life, consideration should be given to the need to use lethal force. If at all practical, specialist and legal advice must be sought immediately, particularly as to the appropriate level of force that can be used, including the use of soft point ammunition to prevent unintended harm caused by ricochet.

10.40. Hostage situations are always a possibility, particularly when compounds hold large numbers of CPERS. All CPERS staff and regular visitors should be briefed in how to behave in a hostage situation. A person who becomes a hostage should remember and consider that they should:

- act as if they have no rank – avoid making demands or giving orders and should not give suggestions to their captors;
- listen carefully for clues regarding the emotional state of the CPERS who have taken them hostage;
- remain calm and alert and not become aggressive;
- avoid political or religious discussion; and
- not make any promises that they cannot fulfil.

## Section 5 – Criminal conduct

### Applicable law

10.41. Depending on their categorisation, CPERS are subject to different legal regimes for offences committed by them while in captivity. CPERS must be informed of the legal regime that they are subject to. The commandant should seek legal advice on the legal regime to be applied. As a general rule the following should be applied.

a. Prisoners of war are subject to the laws, regulations and orders in force in our Armed Forces. Therefore, they are subject to the Armed Forces Act 2006.<sup>386</sup>

b. Internees and detainees are subject to the laws in force in the territory where they are held, namely the host nation laws (subject to any overriding human rights limitations). During occupation, our Armed Forces may repeal or suspend host nation law which constitutes a threat to security and may impose provisions essential to ensure security.<sup>387</sup>

10.42. In the case of criminal offences relating to the armed conflict, the tribunal or court must observe basic principles of natural justice. No sentence may be passed and no penalty enforced unless it follows a conviction pronounced by an impartial and regularly constituted court respecting the

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386 GC III: 82.

387 GC IV: 64.

generally recognised principles of regular judicial procedure. These principles include the following.

- a. Anyone accused of an offence shall be informed of the particulars of the offence alleged against them without delay and shall be afforded all necessary rights and means of defence, both before and during their trial.
- b. No one is to be convicted of an offence except on the basis of individual penal responsibility.
- c. No one is to be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which they were subject at the time when it was committed.
- d. No heavier penalty shall be imposed than that which was applicable at the time when the criminal offence was committed. If, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
- e. Anyone charged with an offence is presumed innocent until proven guilty according to law.
- f. Anyone charged with an offence shall have the right to be tried in their presence.
- g. No one shall be compelled to testify against themselves or to confess guilt.
- h. Anyone charged with an offence shall have the right to examine, or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them.
- i. No one shall be prosecuted or punished by the same party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the same law and judicial procedure.
- j. Anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly.

- k. On conviction, the CPERS shall be advised of their rights of appeal and of the time limits within which they may be exercised.

## Section 6 – Documentation

### Captured persons registration unit

10.43. The CPERS registration unit is part of the CPERS handling chain and is responsible for the full documentation of CPERS. The responsibilities and staffing of a CPERS registration unit are in Annex 10A. The CPERS registration unit is the entry point into the formal CPERS system and the point at which full documentation of the CPERS takes place. The unit is to be sited close to the CPERS facility and, where possible, should be physically integrated into its structure. An example of the layout of a CPERS registration unit is shown in Figure 10.2.

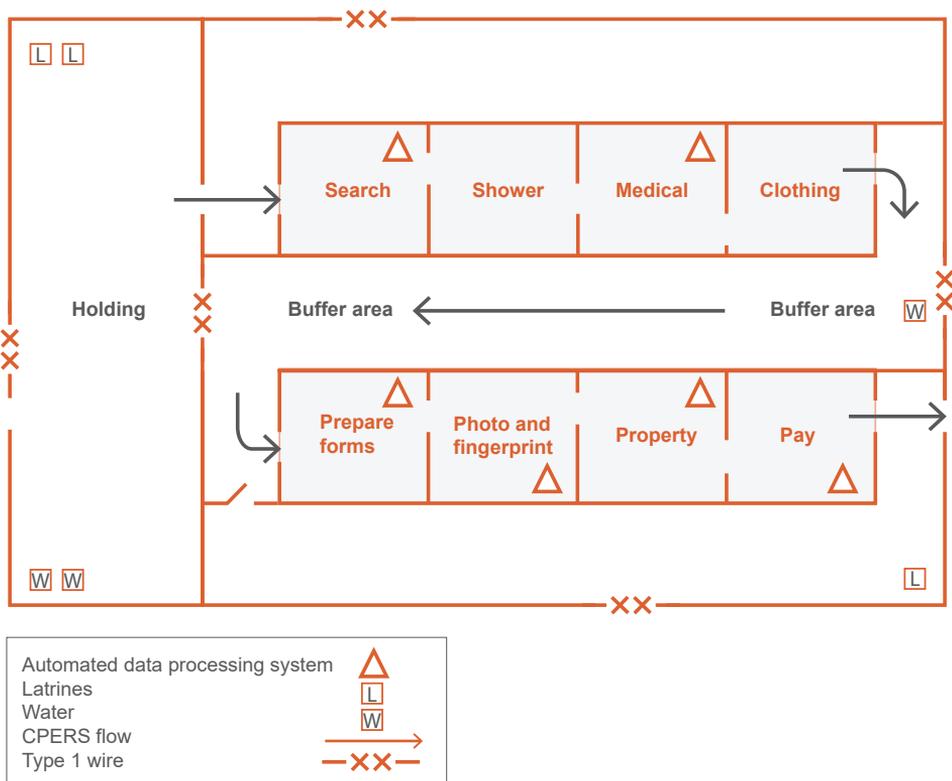


Figure 10.2 – Example layout of a CPERS registration unit

10.44. Once at the CPERS registration unit, the administration carried out at the point of capture and unit holding area should allow staff at the holding facility to link CPERS to any documentation, evidence and property that has moved through the CPERS handling chain. It is imperative at this point that the CPERS registration unit holds all documentation created by the capturing unit to allow further investigation and legal procedures to be carried out.

10.45. Overall responsibility for the CPERS documentation process is vested in the force field administration office. The commandant will establish a field records section within the force field administration office with responsibility for all CPERS documentation and for operating the administrative records system required by the Geneva Conventions.<sup>388</sup> They will normally operate at the CPERS holding facility, although the Joint Force Commander may task them to operate at whichever point in the evacuation chain operational circumstances dictate.

10.46. The details of the information to be recorded should include the following.

- a. **Information about a CPERS identity.** Surname, first names, rank, service, personnel or serial number (for example, national insurance number or equivalent for civilians), address, place and full date of birth, nationality, gender, date and place of capture, status, last place of detention, authority of capture, the name and address of the person to be notified of capture, relationship of that person, the address to which mail for the CPERS may be sent, and (for a prisoner of war or internee) an indication whether they consent to having their details released to the state on which they depend.<sup>389</sup> Aside from this information it may also be necessary to obtain details of the CPERS' father's and mother's name noting that a CPERS may use only one name.
- b. **Information about transfers.** Date of last transfer, destination of last transfer and authority in charge at place of last transfer.<sup>390</sup>
- c. **Information about release or escape.** Date of release or escape and last place of detention before release or escape.

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388 Personnel administration staff will usually be Royal Navy, British Army or Royal Air Force human resources administration-trained personnel.

389 In some societies, becoming a prisoner of war, internee or detainee may lead to the punishment of their family at the hands of the state.

390 See Chapter 12.

- d. **Information about death.** In the event of death, date, place and circumstances of death and place of burial.

10.47. As stated in Chapter 7, Section 3, the administrative staff will give CPERS a unique serial number. If the capturing unit allocated a temporary CPERS internment serial number, upon arrival at the CPERS holding facility, the registration unit will allocate a permanent internment serial number to each CPERS. Full details of the CPERS internment serial number process is at Annex 10B.

10.48. The administrative staff should photograph CPERS in a consistent format agreed with the Force Provost Marshal and produce a digital identification to accompany the CPERS' personnel file; where possible, this should be linked to a bar coded wristlet. The CPERS record, as shown in Annex A, Section 2, should have been handed to the registration unit by the previous facility staff. The capturing unit and the unit holding facility staff should have completed their relevant sections of the record and the registration unit must ensure its completion. In addition, the CPERS registration unit is to populate the prisoners of war personnel record (Annex 10C) for CPERS classified as prisoners of war and pass both forms to the CPERS holding facility staff to use.

10.49. One set of consolidated data will be retained in the joint operations area by the registration staff, for the purpose of administering the CPERS, and a further set will be passed to the Prisoners of War Information Bureau in the UK for onward transmission to the CPERS' parent nation.<sup>391</sup> It is essential that copies of all CPERS records are retained in the MOD Central Archive and this must be reflected in theatre information management instructions.

10.50. **Other functions.** In addition to documenting the CPERS, the CPERS registration unit also carries out a number of other functions connected with inducting the CPERS into the system. These are:

- ascertaining, on arrival and exit of the facility, whether the individual CPERS has any complaint regarding their treatment while held in captivity by our Armed Forces;<sup>392</sup>
- medical examination (by medical personnel only);

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391 See Chapter 4, Section 5. This is mandatory for prisoners of war and internees.

392 Reference should also be made to Chapter 2, Section 5 regarding the complaints procedure and Annex A, Section 2.

- issuing clothing and equipment;
- impounding CPERS property<sup>393</sup> – staff are to document property and prepare a receipt in triplicate; they will give the original to the CPERS, store a copy with the property and place another with the CPERS documents; and
- establishing CPERS pay account (an AFW 3488) – this normally only applies to prisoners of war and internees.

## Section 7 – Rations, messing and canteen<sup>394</sup>

10.51. Whenever possible, the commandant should employ CPERS to prepare and cook their own food in the facility kitchens. In addition, they should allow them to prepare any other food which they may have purchased from the canteen, grown themselves or have received in relief parcels. They should, whenever possible, consider encouraging them to participate in managing their own messing facilities.

10.52. Whenever possible the commandant is to arrange for a contract for the sale of the combined messing by-products from the CPERS and the UK kitchens. They are to ensure that income from the contract is split on a per capita basis and is credited to the CPERS canteen fund.<sup>395</sup>

10.53. The commandant is responsible in each CPERS facility for establishing a canteen where CPERS can buy food, soap, tobacco and other ordinary items for everyday use.<sup>396</sup> A canteen credits system should be used wherever possible. Experience has shown that a system which automatically supplies all items, including cigarettes and sweets to CPERS, while convenient and easy to administer, does not allow the commandant to remove them as a result of disciplinary action and nor does it allow CPERS to engage in managing a small aspect of their daily lives. A system issuing basic hygiene items, such as soap and toothpaste, is recommended, with a system of credits being paid to each CPERS' canteen account with which they may

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393 GC III, Art 18; GC IV, Art 97.

394 GC III, Arts 26 and 28.

395 GC III, Art 28; GC IV, Art 87.

396 GC III, Art 28; GC IV, Art 87.

purchase other items (such as cigarettes, sweets and writing materials). In this way, the commandant can forfeit credits as a disciplinary sanction. It is not recommended that cash is used as this can lead to bullying, trafficking and, in extreme cases, skewing the local economy. CPERS may have the opportunity to earn additional credits through work. It may be prudent for the commandant to consider rewarding good behaviour.

10.54. The commandant is to ensure that canteen prices do not exceed local market or UK prices, whichever is appropriate. To keep selling prices down to this level, canteen stocks are to be bought from wherever the wholesale prices are cheapest. In the case of tobacco products which are bonded goods, the Expeditionary Forces Institute will normally be the sole supplier which will require a purchase order signed by a UK officer and specifying the number of CPERS using the canteen. The commandant is to approve price lists, which are to be displayed in the canteen. Alcohol is not to be sold in canteens, and the commandant is to prohibit CPERS from producing their own supplies.

10.55. Holding facility staff are to make arrangements for CPERS in hospital to buy goods from their parent facility's canteen and for these to be delivered to them.

## Section 8 – Captured persons property

10.56. As a rule, staff may allow CPERS to retain personal items which have no value as an aid to escape or as a weapon.<sup>397</sup> If a CPERS on arrival at a CPERS holding facility has large amounts of money or valuables in their possession (or in their property), staff may remove these from them, prepare them for storage, document them, as detailed earlier, and put them into safe custody to ensure their security.<sup>398</sup> In such cases, an officer must authorise such removal of property and staff are to ensure that all such property is returned to the CPERS at the end of their captivity. If there are any concerns about returning such items, advice must be taken from the MOD legal advisers.

10.57. Staff need to record details of the property and of its owner in a property register. They are to store such property in a secure store fitted with two locks. The commandant will hold the key for one lock and the CPERS

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<sup>397</sup> See paragraph 7.8b, which details what property a prisoner of war may retain in accordance with GC III, Art 18.

<sup>398</sup> GC III, Arts 58-59.

representative will hold the key to the other. The property register is also to be kept in this store. Staff are to record all movements of property in the register, which is to be signed by a member of the staff and by the CPERS representative.

10.58. If a CPERS reports that property has been taken from them illegally or that property is missing, the commandant is to institute an investigation. If it is a serious matter or suggests corruption on the part of CPERS holding facility staff, the commandant should request the assistance of the Service police. If this fails to reveal the whereabouts of the property, J1 staff may need to convene a Service inquiry. J1 should send the proceedings of the inquiry, together with two copies of a summary of the findings of the board, to the MOD through the normal chain of command and give one copy of the summary to the CPERS. If the articles are valuables and are found to be missing and the CPERS can show that items of property have been wrongly taken from them, or have otherwise become lost through no fault of their own, they will be replaced at public expense.<sup>399</sup>

10.59. If a CPERS dies or makes a successful escape, staff are to ensure that their property is to be disposed of in the following manner:

- photographs or otherwise detailed recordings of all articles shall be made;
- staff are to send small items of intrinsic or sentimental value to the Prisoners of War Information Bureau together with an inventory, a receipt should be obtained;
- the CPERS representative will credit the deceased CPERS account with the proceeds from articles sold on their behalf (these funds should be sent to the family of the deceased) – care should be taken to secure a realistic market value for such articles (consult Force Provost Marshal and legal adviser, including about potentially offering items to the family rather than selling them);
- staff are to destroy unusable issued clothing, or launder and re-distribute serviceable clothing; and
- staff are to dispose of toiletries.

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399 GC III, Art 68; GC IV, Art 8.9.

## Section 9 – Mail and communication

10.60. CPERS are allowed to send and receive letters as well as receive parcels. Our Armed Forces are to ensure that all mail is conveyed as quickly as possible. Therefore, regulation of the mail system is necessary.<sup>400</sup> The ICRC can support the authorities in fulfilling their obligations to ensure that CPERS have meaningful family contact and regular exchanges of family news and documents. The exchange of Red Cross Messages, which the ICRC regularly facilitates, is one means for enabling communication between a CPERS and their family. In recent operational settings the ICRC has also assisted with implementing other programmes, such as regular family visits to CPERS facilities and video/phone calls between CPERS and their families, who may be located either in an ICRC office or in their home. The ICRC should be contacted with regards to implementing such humanitarian services.

10.61. **Notification cards.** Immediately on capture, or within one week of arriving at a CPERS holding facility, our Armed Forces are to allow each CPERS to write one card to their family and one card to the Central Tracing Agency of the ICRC, or the protecting power, telling them of their capture, address and state of health. This process is distinct from the notification process which the authorities must carry out to inform the Prisoners of War Information Bureau, the National Information Bureau, Central Agency and the ICRC of the CPERS' circumstances.

10.62. **Camp postal officer.** The commandant is to appoint a regular officer or warrant officer as the camp postal officer who will be responsible for:

- establishing and operating a CPERS mail room under the guidance of the Senior Force Postal and Courier Service Officer;
- opening and examining all incoming parcels in the presence of an interpreter and either the intended recipient, a fellow CPERS or the CPERS representative;
- ensuring that no letter is delivered to a CPERS unless it has been subjected to the CPERS censorship process;
- scrutinising all outgoing mail to ensure that the instructions concerning outgoing mail have been complied with;

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400 GC III, Arts 70-71; GC IV, Art 107.

- dispatching all outgoing mail to the appropriate censorship authority; and
- controlling and issuing special CPERS stationery.

10.63. **Incoming mail.** There are no limitations on the amount of correspondence a CPERS may receive. CPERS will be allowed to receive all letters and cards which are addressed to them, unless they have been withheld due to censorship and security concerns. Consideration should be given to redacting problematic parts of a letter and then photocopying it so that the censured sections cannot be read.<sup>401</sup> Holding facility staff must not delay or detain mail as a punishment; neither must they delay mail under the pretext of censorship difficulties. Incoming mail is likely to be subjected to a censorship process both in the CPERS' own country and by the UK system. If the censor judges the content of an incoming letter to be objectionable on security grounds they may retain the letter. In this case, they will inform the CPERS of the letter's retention and the letter will be retained by the censoring authorities for 12 months in case inquiries about the whereabouts of the letter are made by the ICRC or the protecting power.

10.64. **Outgoing mail.** There are no postal charges on CPERS mail which may only be written on special stationery (AFW 3058 and 3494). The normal allowance of outgoing mail is two letter forms and four postcards per month, although an application for an increase in this quota may be made to the commandant. Our Armed Forces, and possibly the authorities in the country to which the mail is addressed, will subject outgoing mail, with certain exceptions, to censorship.

10.65. **Mail for captured persons in hospital.** CPERS facility staff need to make arrangements for CPERS in hospital, to receive their mail without undue delay and to ensure that a supply of special stationery is delivered to enable them to write their quota of cards and letters. Hospital staff will need to be made aware of the rules and make arrangements for outgoing mail to be taken to the CPERS facility for processing.

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401 The commandant should engage with the legal adviser in setting up and reviewing the process for censorship of mail.

10.66. **Privileged correspondence.** Certain types of correspondence fall outside the regulations for CPERS mail.<sup>402</sup>

- a. The senior retained medical officer and the senior retained chaplain may correspond with the appropriate UK authorities on matters relating to their duties. Such correspondence is not limited in quantity and is not subject to censorship.
- b. Chaplains may also correspond with local church authorities and international religious organisations. This correspondence is not limited in quantity but will be subject to censorship.
- c. The CPERS will be permitted to correspond with a lawyer.<sup>403</sup>
- d. All CPERS have the right to correspond with the protecting power, the ICRC, the MOD, the mixed medical commission and any approved international aid organisation.

10.67. **The language of correspondence.** Holding facility staff are to inform CPERS of the language in which they may correspond. As a rule, this is to be the native language of the CPERS. Where there are shortages of translators to conduct the censorship process, the UK may request the protecting power to ask the nation on which the CPERS depend, to impose restrictions on the number of letters which CPERS can receive and send.

10.68. **Redirection of mail.** Ideally before they are transferred to another CPERS holding facility, staff will notify CPERS of their new postal address in sufficient time before their departure, so they can inform their next of kin. This is to be done by the dispatch of a new notification card.

10.69. **Censorship.** All incoming and outgoing CPERS letters, apart from those items of privileged correspondence identified in previous paragraphs, will be subject to censorship. The camp postal officer will scrutinise outgoing mail to ensure that it complies with the regulations for correspondence. Incoming mail will not be passed to CPERS unless it bears the censors mark confirming that it has been subject to the censorship process. The Operations Directorate will arrange for the actual censoring of mail to be carried out at a central location either in the joint operations area or in the UK.

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402 GC III, Arts 33, 35, 77 and 81.

403 Further guidance will be provided by the Permanent Joint Headquarters (PJHQ).

## Section 10 – Relief supplies

10.70. **Examining parcels.** The commandant is to allow CPERS to receive individual parcels or collective relief shipments containing articles such as food, clothing, medical supplies and religious, educational, cultural or recreational articles.<sup>404</sup> They will determine the admissibility of other items. Parcels are to be examined as stated below.<sup>405</sup>

- a. **Individual parcels.** The postal officer is to open parcels addressed to individuals in the presence of the individual and the interpreter. They are to send any letters included in parcels for examination by the censor.
- b. **Collective consignments.** Holding facility staff are to examine collective consignments as soon as possible in the presence of the CPERS representative or an assistant. If they consider any item to be inadmissible on security grounds, they are to impound it and submit a report to J1 at the Joint Task Force Headquarters, who will forward the information to the MOD through the normal chain of command. The commandant is to allow inspection of the impounded items by the ICRC or the protecting power but is not to divulge the reason for the impounding of the item.

10.71. **Local donations.** In the event of a local relief organisation wishing to donate relief supplies to a CPERS holding facility, the commandant will seek guidance from J1 at the Joint Task Force Headquarters. If J1 permit the acceptance of a donation, the rules applying to collective consignments of relief supplies will apply.

10.72. **Distributing collective relief consignments.** To ensure that collective relief is distributed in an equitable manner, Geneva Conventions III and IV set down a number of provisions covering the distribution process.<sup>406</sup> This relief process may also take place in operations not covered by to these two conventions.

- a. The ICRC, protecting power or any other recognised organisation providing aid to CPERS may oversee relief consignments distribution. They may also organise relief consignments distribution in any manner

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404 GC III, Art 72; GC IV, Art 108.

405 GC III, Art 76; GC IV, Art 112.

406 GC III, Art 73; GC IV, Art 109.

which they consider to be helpful in ensuring that consignments reach their intended destination.

b. The CPERS representatives are allowed to distribute relief consignments for which they are responsible to all CPERS administered by the facility irrespective of whether they are present in the facility at the time or elsewhere, such as in hospital or in prison.

c. The CPERS representatives will plan and distribute the items in accordance with the wishes of the donors of the relief. The commandant will have to take appropriate actions if distributions are leading to inequalities and resentment in the CPERS population, potentially by obtaining equivalent relief for other CPERS. In the case of medical supplies, the distribution plan is to be agreed with the senior medical officers who will suggest a distribution based on the needs of their patients.

10.73. CPERS representatives are to be allowed to:

- check the quantity and quality of relief goods on arrival;
- check whether relief has been distributed to all parts of the facility and has taken place in accordance with their instructions; and
- complete, and have completed by others, forms and questionnaires relating to the requirements, distribution and supply of relief consignments by the donor organisations – the CPERS representatives are to forward these forms and questionnaires to the relief organisations without delay.

10.74. The commandant is to provide the CPERS representatives with storage facilities so that they can build up a stockpile of relief stores to enable regular issues of supplies and to cope with the arrival of new CPERS in the facility. Each store will have two locks, the commandant will hold the key to one and the CPERS representative will hold the other.

10.75. Where collective consignments of clothing are available, staff are to ensure that each CPERS has at least one complete set of clothing. Where shortages exist, the CPERS representative is permitted to withdraw items from those with the most clothing to provide for CPERS who are less well equipped. Staff need to ensure that second sets of underclothing, socks and footwear

are only withdrawn to provide for CPERS who have none of these items. CPERS may also receive collective relief before their arrival in a CPERS holding facility or while they are being transferred to or from another facility.

## Section 11 – Spiritual, intellectual and physical activities

10.76. The promotion and maintenance of spiritual, mental and physical well-being of CPERS is required by the Geneva Conventions. To a certain extent, employing CPERS on work projects fulfils part of this remit but there are other requirements.<sup>407</sup>

10.77. **Religious activity.** The commandant is to permit CPERS to practise their religion or exercise their beliefs, provided that this is carried out within the rules of holding facility discipline and are not otherwise constrained by UK domestic law or international human rights law. Where possible, they are to provide a place of worship and allow chaplains and other spiritual leaders to minister to CPERS of the same religion or belief. Where there is no minister or religious leader, a lay CPERS may be appointed by the commandant to lead worship.<sup>408</sup>

10.78. **Intellectual and physical activities.** The commandant must encourage and facilitate intellectual, educational and recreational activities, including sports and games among CPERS. Therefore, they should ensure that suitable facilities and equipment are provided to allow these activities to take place.<sup>409</sup>

## Section 12 – Civil legal matters

10.79. **Civil legal status of captured persons.** CPERS retain their legal status as citizens of their country. This may not be restricted except where it is an inevitable consequence of captivity. The CPERS retains the right to exercise their legal rights in their own country in such matters as disposing of property, making wills, giving consent to marriage or voting.<sup>410</sup> This will

407 GC III, Arts 34 and 38; GC IV, Arts 93-94.

408 GC III, Arts 34-37; GC IV, Art 93.

409 GC III, Art 38; GC IV, Art 94.

410 GC III, Art 77.

normally be conducted by post using a lawyer, an agent or a proxy acting under a power of attorney.

10.80. **Legal documents.** The commandant must ensure that CPERS are given facilities for preparing and executing legal documents, especially powers of attorney and wills, and are responsible for sending these to the CPERS' parent nation through the protecting power or the ICRC. CPERS are entitled to seek legal advice to assist them in drafting, executing and authenticating legal documents.

## Section 13 – Captured persons representation

10.81. This section deals with CPERS representation for internees and prisoners of war. Consideration should be given to affording other CPERS the rights set out in this section as best practice, where appropriate, owing to the length of time in captivity.

### The internee committee<sup>411</sup>

10.82. In every place of internment, internees must be able to elect members of an internee committee by secret ballot every six months. Members of the committee are eligible for re-election. Membership is subject to the approval of the UK authorities, but if it is withheld or a member is dismissed, the protecting power must be informed of the reasons. Internees so elected can only take up their duties after such approval.

10.83. Internees have the right to present petitions to the UK authorities about the conditions of their internment. Further, they may complain about their conditions of internment, without restriction, either through their own internee committee or directly to the representatives of the protecting power. All petitions and complaints must be forwarded forthwith and unaltered. Even if they are unfounded, no punishment may be imposed on the complainants. The internee committee may send periodic reports on internment conditions and the needs of the internees to the representatives of the protecting power.

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411 GC IV, Arts 101-103.

10.84. **Duties of the internee committee.** The general duty of the internee committee is to further the physical, spiritual and intellectual welfare of the internees. It represents internees in dealings with the UK and the protecting power, the ICRC and any other organisation helping internees. In the event of a decision made by internees to organise a mutual assistance welfare system amongst themselves, implementation thereof would be within the competence of the internee committee. The specific tasks of the internee committee include:

- running canteens;
- transmitting complaints, petitions and reports;
- collecting, holding and distributing collective relief; and
- transporting internees' community property and baggage.

10.85. **Commandant's responsibilities.** The commandant must inform the internee committee of all judicial proceedings instituted against internees whom they represent and the result of such proceedings. The commandant must announce any decision on disciplinary punishment against an internee in the presence of the accused and a member of the internee committee.

10.86. **Rights of members of the internee committee.** Members of the internee committee have the following rights:

- not to do other work if this would interfere with their duties;
- to appoint fellow internees as assistants, as required;
- to have the necessary facilities to perform their duties, for example, inspecting labour detachments and receiving relief supplies;
- to correspond by post with the detaining authorities, the protecting power, the ICRC and any other organisation assisting internees;
- if at a labour detachment, to conduct correspondence with the internee committee at the main facility; and
- in the event of transfer, to effect a proper handover to their successors.

## The prisoners of war representative

10.87. The prisoners of war representative serves as an intermediary between prisoners of war and the representatives of the capturing power. Their position is guaranteed by Geneva Convention III, which also documents their rights and duties.<sup>412</sup>

10.88. **Appointing the prisoners of war representative.** Wherever there are prisoners of war, regardless of their number, there is to be a prisoners of war representative with whom prisoners of war may freely consult. The prisoners of war representative must have the same nationality, language and customs as the prisoners of war they represent. If there is more than one national group or ethnic group (where there are historical or known tensions) in a facility, each group must have its own prisoners of war representative. The procedure for selecting prisoners of war representatives for various grades of prisoners of war is as follows.

- a. **Officers holding facilities.** In officers' holding facilities, the senior officer prisoner of war acts as prisoners of war representative, assisted by advisers chosen by the prisoners of war representative.
- b. **Hospitals and mixed rank holding facilities.** In a hospital or a holding facility where there is a mixture of officer and other rank prisoners of war, the senior officer will be the prisoners of war representative and their assistants will be elected by the other rank prisoners of war from amongst their number.
- c. **Subsidiary holding facilities.** In subsidiary holding facilities such as labour camps where an officer prisoner of war has been appointed to carry out administrative duties, they may be appointed as the prisoners of war representative. In this case, their assistants will be elected by the other rank prisoners of war from amongst their number.
- d. **Other ranks holding facilities.** A prisoners of war representative and their assistants are elected by secret ballot held every six months. All are eligible for re-election at the end of each six-month period of office.

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412 GC III, Art 79.

10.89. **Approving the elected prisoners of war representative.** The UK (usually the Joint Force Commander) must approve each elected prisoners of war representative before they have the right to start their duties. If the choice of an elected representative is not approved, the commandant must seek advice from the MOD, and the protecting power must be informed of the reasons for this decision. If the prisoners of war representative is not approved, prisoners of war have the right to elect a replacement immediately.

10.90. **Prisoners of war representative's duties.** The prisoners of war representative is to act as an intermediary or spokesman on behalf of the prisoners of war in dealings with our Armed Forces. Geneva Convention III requires them to promote the physical, spiritual and intellectual welfare of their fellow prisoners of war. In fulfilling this role, the prisoners of war representative cannot be held responsible, by virtue of their position, for offences committed by prisoners of war. The duties of the prisoners of war representative may include the following.<sup>413</sup>

- Ensuring that our Armed Forces comply with the provisions of the Geneva Conventions, and taking remedial action where breaches have occurred.
- Attending interviews with visiting agents of the protecting power, the ICRC and other recognised aid organisations.
- Receiving communications concerning judicial proceedings against prisoners of war and arranging for legal advice to be provided to prisoners of war on these and other matters.
- Dealing with requests, complaints and periodic reports.
- Monitoring disciplinary sanctions imposed on prisoners of war and, specifically, visiting prisoners of war serving sanctions and ensuring that they are receiving proper treatment as laid down in Geneva Convention III.
- Proposing prisoners of war for repatriation and attending proceedings of the mixed medical commission, as well as monitoring inquiries into deaths and serious injuries of prisoners of war.<sup>414</sup>

413 GC III, Arts 28, 48, 57, 65, 73, 78, 79, 80, 81, 96, 98, 104 and 113.

414 See Chapter 3 for details on the mixed medical commission.

- Receiving and distributing collective relief consignments, operating a relief stockpile, holding in trust parcels and remittances for prisoners of war serving sanctions and returning receipts for relief consignments to the dispatching agency.
- Assisting in managing canteens and countersigning entries on prisoner of war accounts (Annex 10D).
- Arranging with the CPERS holding facility commandant to move the personal belongings and communal property of prisoners of war transferred to another location.
- Maintaining liaison with the prisoners' representative in subsidiary holding facilities and with prisoners of war working for private employers.

10.91. **Female prisoners of war representative.**<sup>415</sup> A female prisoners of war representative may be elected from among the female prisoners of war (unless the senior prisoners' representative is female). She is to be allowed to approach the senior female officer on the holding facility staff but otherwise will be subordinate to the senior prisoners' of war representative.

10.92. **Prisoners of war representatives' rights.** Prisoners of war representatives have certain rights to assist them in carrying out their duties.<sup>416</sup> They have a right:

- not to work if to do so would interfere with representational duties;
- to appoint fellow prisoners of war as assistants in the performance of their duties, as required;
- to be allowed access to sufficient facilities to allow them to carry out their duties – this could extend to providing transport to enable visits to prisoners of war working out of subsidiary holding facilities;
- to be allowed to communicate freely with the UK MOD (usually via the Joint Force Commander), the protecting power, the ICRC and its delegates, the mixed medical commissions and

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415 GC III makes no reference to female prisoners of war representative, but this section should be taken as mandatory.

416 GC III, Arts 62, 81 and 98.

other recognised relief organisations (if they are the prisoners' representative in a subsidiary holding facility, they have the right to communicate freely with the prisoners' representative at the main holding facility);

- to be allowed to properly handover duties to their successor should they be transferred or repatriated;
- to visit and communicate with prisoners of war in detention; and
- to be paid.

10.93. **Dismissing a prisoners' representative.** Prisoners' representatives (including elected senior officers) can only be dismissed by the UK (usually by the Joint Force Commander). Senior officers who are ex-officio prisoners' representatives can only be removed from office through a transfer to another facility.

10.94. **Prisoners' requests and complaints.** Prisoners of war have the right to make requests concerning the conditions of their captivity to the Joint Force Commander (usually via the commandant).<sup>417</sup> They also have the right to apply to the protecting power or the ICRC, either through their prisoners' representative, or, if they consider it necessary, directly, to draw attention to such matters. No restriction may be placed on making requests and complaints; complaints must be passed on without delay and they do not count towards the monthly quota of cards and letters a prisoner of war is permitted to send. A prisoner of war is not to be punished for making a request or complaint, even if it is unfounded. However, it should be remembered that some CPERS will almost certainly attempt to manipulate guard force personnel.

10.95. Although the provisions at paragraphs 10.87 to 10.94 are mandatory for prisoners of war, as best practice, commanders, where appropriate, should consider applying the same provisions for other CPERS.

## Additional rights and provisions

10.96. Details of the different categories of CPERS are covered in Chapter 1, Section 5 and Annex 1D. While this publication cannot cover in detail the additional rights and entitlements for all categories of CPERS, Annex 10D

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417 GC III, Art 78.

includes some of the additional rights and entitlements applicable to prisoners of war as contained in Geneva Convention III. Annex 10E includes some of the additional rights and entitlements applicable to internees as contained in Geneva Convention IV. There is no annex concerning additional rights or entitlements for those categorised as detainees as they are not governed by the Geneva Conventions and Additional Protocols. The annexes do not cover every right and entitlement for prisoners of war and internees. Commanders must also refer to their legal adviser and to Geneva Conventions III and IV for full details where these two categories of CPERS are held in captivity. While it may not always be possible to provide these rights and entitlements at every stage of the CPERS handling process, they are to be provided at the CPERS holding facility.

## Annex 10A

# Detailed functions of the captured persons registration unit

Location	Staffing	Action
Holding compound	Guard force	<ul style="list-style-type: none"> <li>Supervise captured persons (CPERS) waiting in the compound.</li> <li>Observe CPERS behaviour, identify leaders and make a note for interrogation teams.</li> <li>Issue notification card.<sup>418</sup></li> <li>Marshal CPERS into first functional area.</li> </ul>
Search	Guard force	<ul style="list-style-type: none"> <li>Search CPERS (same gender searcher).</li> <li>Link property to internment serial number (ISN) or capture serial number (CSN).</li> <li>Take property to temporary storage area.</li> <li>Supervise movement of CPERS to next area.</li> </ul>
Shower	Guard force	<ul style="list-style-type: none"> <li>Supervise CPERS showering (same gender supervision).</li> <li>Supervise movement of CPERS to next area.</li> </ul>
Medical	Medical personnel	<ul style="list-style-type: none"> <li>Inspect CPERS for injury or illness beyond capabilities of holding area medical staff.</li> <li>Immunise and vaccinate as appropriate.</li> <li>Initiate medical records and enter ISN or CSN.</li> <li>Complete medical record (F Med 1026).</li> <li>Supervise movement of CPERS to next area.</li> </ul>
Clothing and equipment	Guard force	<ul style="list-style-type: none"> <li>Issue personal items – soap, toothbrush, toothpaste, toilet paper.</li> <li>Issue clothing as appropriate.<sup>419</sup></li> <li>Supervise movement of CPERS to buffer area.</li> </ul>

418 Production of these cards is the responsibility of the capturing power and should be in both the language of the capturing power and that of the CPERS. The International Committee of the Red Cross (ICRC) can often produce such cards where they are not otherwise available. Such cards, when completed, will be sent to the ICRC and from there, unless the CPERS specifically requests otherwise, to the CPERS' parent state.

419 Clothing issue will depend on: the state of CPERS' clothing, availability of fresh clothing and the policy on CPERS' uniform and markings.

Location	Staffing	Action
Buffer area	Guard force	<ul style="list-style-type: none"> <li>• Maintain CPERS discipline in buffer area.</li> <li>• Supervise CPERS movement to next area.</li> </ul>
Form preparation	Field records section	<ul style="list-style-type: none"> <li>• Record details of CPERS onto UK Prisoner Administration System or alternative e-record system and allocate internment serial number to CPERS with capture serial number.</li> <li>• Interview CPERS using interpreter as necessary, prepare F/PW 128 (IT).</li> <li>• Ask if the CPERS wishes to make a complaint regarding their treatment, and if so record this.</li> <li>• Read data back to CPERS card.</li> </ul>
Photo and fingerprint	Field records section	<ul style="list-style-type: none"> <li>• Weigh and fingerprint CPERS, record data on weight record card/input to JPA or manual system.</li> <li>• Photograph CPERS' full face holding board with ISN under chin.</li> <li>• Attach one photo to F/PW 128 and laminate other on to CPERS identification card. Issue card.</li> <li>• Supervise movement of CPERS to next area.</li> </ul>
Property	Field records section	<ul style="list-style-type: none"> <li>• List and record in the presence of the CPERS property brought from temporary storage area (see search area details).</li> <li>• Itemise under headings of 'returned, stored, impounded and confiscated'. Input to JPA or manual system, attach one copy of agreed lists signed by CPERS to F/PW 128.</li> <li>• Supervise movement of CPERS to next area.</li> </ul>
Pay	Field records section	<ul style="list-style-type: none"> <li>• Initiate AFW 3488, complete as appropriate and attach to F/PW 128.</li> <li>• Supervise movement of CPERS out of area.</li> </ul>
CPERS registration unit exit	Guard force	<ul style="list-style-type: none"> <li>• Collect completed notification cards.</li> <li>• Supervise movement of CPERS to interrogation centre or holding area as directed.</li> </ul>

## Annex 10B

# Internment serial number

10B.1. This annex outlines the recommended format for composing the internment serial number (ISN).<sup>420</sup> The ISN is a unique serial number allocated to a captured person to enable identification and tracking by the prisoner handling organisation and registration by the International Committee of the Red Cross (ICRC). Depending on developments in the course of an operation, it is possible that a captured person may be re-categorised, for example, from detainee to internee, or vice versa.

10B.2. The ISN is a numerical cataloguing of certain data relating to captured persons (CPERS). An explanation of the content of the ISN is outlined below. ISNs can be read and, if necessary, generated without using information technology systems.

The ISN is not a substitute for, but an addition to, completion of capture cards and records.

10B.3. The ISN consists of 14 alphanumeric characters as shown below.<sup>421</sup>



a. **Positions 1 and 2 – country codes.** The country code of the capturing nation. North Atlantic Treaty Organization (NATO) Standard Agreement (STANAG) 1059 contains a listing of two-character

<sup>420</sup> The internment serial number was not developed to categorise CPERS and applies to all types of CPERS, not only internees.

<sup>421</sup> Royal Navy's Book of Reference (digital) (BRd) 9622, *Detention of Captured Persons in the Maritime Environment*, October 2013.

alphabetic codes representing every country in the world.<sup>422</sup> The STANAG cross refers to the two and three-letter International Standards Organisation codes used by the International Committee of the Red Cross.

- b. **Positions 3 and 4 – superior unit or formation identifying codes.** A two-character alphanumeric code representing the unit or formation to which the capturing unit is subordinate. These codes will be promulgated by the relevant higher command or the Commander Joint Task Force for the particular operation.
- c. **Positions 5 to 10 – number.** A six-digit sequential number unique to the individual CPERS generated by the unit CPERS registration unit.
- d. **Positions 11 and 12 – identifying nation.** A two-character alphabetical code from STANAG 1059 identifying the nation to which the captured person owes allegiance.
- e. **Position 13 – status.** A single character indicating the status of the CPERS.

Character	Meaning
O	Officer
S	Other rank
M	Retained medical personnel
R	Retained religious personnel
C	Civilian (internee or detainee)

- f. **Position 14 – gender code.** A single character indicating the gender of the CPERS:
  - o F – female; or
  - o M – male.

<sup>422</sup> At time of publication, NATO is yet to ratify STANAG 1059, Edition 9, which introduces a three-character geographical code.

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10B.4. **Example of an internment serial number.** An example ISN of UK-1U-100864-IZ-S-M translates as:

- UK – UK is the capturing nation;
- 1U – the capturing unit was under full command of 1 (UK) Armoured division;
- 100864 – a unique number from a block allocated to the unit;
- IZ – the nation to which the CPERS owes their allegiance (IZ in this example is Iraq);
- S – the CPERS is an other rank; and
- M – the CPERS is male.

Notes

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## Annex 10C

# The prisoners of war personnel record

## Completion and disposal of the prisoners of war personnel record

10C.1. This form must be completed for prisoners of war, and is printed in duplicate on white and green paper, and consists of three parts.

10C.2. The form is to be completed in BLOCK LETTERS using carbon paper and a ballpoint pen.<sup>423</sup>

10C.3. The form is to be used at temporary registration units, such as regimental aid posts and dressing stations, and at permanent CPERS registration units, such as holding areas and CPERS holding facilities.

10C.4. If a CPERS refuses to give information or is so badly incapacitated as to be unable to do so, a note is to be made in the 'remarks' part of the form.

10C.5. The 'green' duplicate part of the form is to be sent to the UK Prisoners of War Information Bureau. Parts 1 and 2 of the 'white' original copy will accompany the CPERS throughout their captivity, and Part 2 is to be kept up-to-date at all times. Part 3 of the 'white' original is to be retained temporarily by the CPERS registration unit processing the CPERS. When all 25 forms in the pad have been used, the 25 'white' Part 3s are to be sent to the UK Prisoners of War Information Bureau.

10C.6. Notwithstanding that Form F/PW 128 is entitled Prisoners of War Personnel Record, the basis of its contents can be adapted and used for all CPERS.

10C.7. Any information given by a CPERS to a health care professional is given on the understanding of a duty of confidentiality. Therefore, consent must be obtained before releasing this information. Advice in situations of

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423 Practically, if the original Form F/PW 128 is not available, alternatives such as printed versions using white and green paper will suffice.

doubt concerning potential disclosure of medical information should always be obtained from higher medical authority through the medical chain of command.

10C.8. Defence Medical Services staff may wish to insert the words: 'Refer to F Med 1026 Part 2 for medical care instructions. Detailed information held in F Med 1026: Part 1 and other Defence Medical Services CPERS Medical Records' in areas of this form where medical information is required.

10C.9. Further advice concerning medical confidentiality can be found in Chapter 3.

Prisoners of war personnel record				1. Internment serial number	
<b>Part 1a – To be completed at time of processing</b>					
2a. Last name		2b. First names		3. Grade/rank	4. Service number
5. Power served		6. Place of capture			7. Date of capture
8. Place of birth				9. Date of birth	
10. Father/stepfather (last name–first name)				11. Mother’s maiden name	
12. Name, address and relationship of person to be informed of capture					
13. Address to which mail for prisoners may be sent			14. Prisoner’s permanent home address		
15. Physical condition when captured (list wounds or illnesses, if any)			16. Other particulars from identity card or tag (if required for identification)		
17. Married or single		18. Religion			
19. Nationality		20. Arm or Service			
21. Enemy unit or vessel					
22. Occupations					
a. Civilian			b. Military		
23. Knowledge of languages					
24. Description					
Sex	Age	Height	Weight	Distinguishing marks	
Eyes	Skin		Hair		

Part 1b – To be completed at time of processing	
25. Impounded property and money	
The above is correct .....(signature of prisoner)	
26. Prepared by (unit)	27. Signature
28. Date prepared	29. Place
30. Remarks	
31. Fingerprints for identification purposes only (if finger is missing write none in appropriate box)	
Left hand	Right hand
1. Thumb	1. Thumb
2. Index finger	2. Index finger
3. Middle finger	3. Middle finger
4. Ring finger	4. Ring finger
5. Little finger	5. Little finger

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Part 2a – To be maintained by unit having custody		
32a. Last name	33. Internment serial number	
32b. First names		
34. Medical records		
a. Immunisation (vaccinations and inoculations) – with dates		
b. Major illnesses and physical defects – with dates		
c. Blood group		
35. Internment employment qualifications		
36. Serious offences, punishments and escapes – with dates		
37. Transfers		
From (location)	To (location)	Date
38. Remarks		

Part 2b – To be maintained by unit having custody	
39. Financial status at time of first international transfer	
a. Certificate of credit balance issued to prisoner of war (amount in words)	b. Amount in figures
c. Location	d. Date
40. Financial status at time of second international transfer	
a. Certificate of credit balance issued to prisoner of war (amount in words)	b. Amount in figures
c. Location	d. Date
41. Repatriation	
a. Reason	
b. Mode	
42. Financial status at time of repatriation	
a. Certificate of credit balance issued to prisoner of war (amount in words)	b. Amount in figures
b. Location	d. Date

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<b>Prisoners of war personnel record</b>		1. Internment serial number	
<b>Part 3 – To be completed at time of processing</b>			
2a. Last name	2b. First names	3. Grade/rank	4. Enemy Service number
5. Power served	6. Place of capture		7. Date of capture
8. Place of birth			9. Date of birth
10. Father/stepfather (last name-first name)		11. Mother's maiden name	
12. Name, address and relationship of person to be informed of capture			
13. Address to which mail for prisoners may be sent		14. Prisoner's permanent home address	
15. Physical condition when captured (list wounds or illnesses, if any)		16. Other particulars from identity card or tag (if required for identification)	

Notes

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## Annex 10D

# Additional rights and provisions for those afforded the status of prisoners of war

## Administration

10D.1. **Badges of rank.** The commandant is to allow prisoners of war to wear badges denoting rank and nationality as well as decorations.<sup>424</sup>

10D.2. **Saluting.** All other rank prisoners of war must salute or otherwise show respect to all officers of the capturing power. Officer prisoners of war must salute officers of the capturing power of a higher rank than themselves and must salute the commandant, regardless of their rank.

## Prisoners of war finances

10D.3. To reduce the ability of prisoners of war to finance an escape and to prevent theft, prisoners of war are not to be allowed to retain large sums of cash in their possession. Prisoners of war finances in a permanent or semi-permanent captured persons (CPERS) holding facility are therefore principally based on a cashless transaction system, which places a considerable additional burden on accounting procedures and which will require the services of a dedicated pay staff for its proper operation.

10D.4. **Prisoners of war accounts.** The commandant is to arrange for an account to be maintained for each prisoner of war showing the following.<sup>425</sup>

- a. Money due to the prisoner of war or money which has been received by them as advances of pay, as work pay or any other source of income.

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424 Geneva Convention III 1949 (GC III), Article (Art) 40. Detailed instructions are contained in the *Manual of Army Pay Duties*.

425 GC III, Art 64.

- b. Money taken from the prisoner of war on capture.
- c. Payments made at the prisoner of war's request and on their behalf.
- d. Money transferred to the prisoner of war's home state.

10D.5. **Management of accounts.** Geneva Convention III requires accounts of prisoners of wars to be managed as follows.<sup>426</sup>

- a. Each entry must be validated by the prisoner of war or by the prisoners of war representative on their behalf.
- b. Prisoners of war are to be allowed reasonable opportunity to inspect their accounts.
- c. Accounts must be available for inspection by the protecting power when its representatives visit the CPERS holding facility.
- d. Statements of prisoners of war accounts may be exchanged by the belligerents through the protecting power.
- e. A prisoner of war's account is to accompany them on transfer.

### Prisoners of war income and pay

10D.6. Cash taken from prisoners of war on capture<sup>427</sup> should be treated as follows.

- a. Foreign currency is treated as an article of value, stored and returned to the prisoner of war on repatriation.
- b. UK Sterling (which may include foreign currency converted at the prisoner of war's request) is credited to the prisoner of war's account.

10D.7. **Advances of pay.** The commandant is to ensure that all prisoners of war are granted a monthly advance of pay. Geneva Convention III lays down a scale of pay which is to be used until the belligerents agree a scale for advances of pay.<sup>428</sup>

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426 GC III, Art 65.

427 GC III, Art 18.

428 GC III, Art 60. These figures are based on 1949 rates of pay and would have to be revised for any particular operation.

10D.8. **Supplementary pay.** The prisoner of war's parent nation may arrange for prisoners of war to have supplementary pay. If this is the case, the commandant must ensure that the sum forwarded is shared equally between all categories of prisoner of war belonging to that nation and credited to their accounts.<sup>429</sup>

10D.9. **Other remittances.** The commandant must ensure that any other money addressed to prisoners of war, either individually or collectively, is accepted and credited to prisoners of war accounts.<sup>430</sup>

10D.10. **Working pay.** Prisoners of war who work both outside and inside the CPERS holding facility and those engaged on medical and chaplaincy duties are paid by the UK government.<sup>431</sup> Those who work as prisoners of war representatives are paid out of canteen profits. All pay is credited to prisoners of war accounts.

## Prisoners of war expenditure

10D.11. **Held money.** Prisoners of war are allowed to hold small sums of money to a maximum set initially by the capturing power and subsequently agreed with the protecting power.<sup>432</sup> Any money due to a prisoner of war which exceeds this limit is to be credited to their account.

10D.12. **Expenditure.** Geneva Convention III dictates that prisoners of war must be able to spend the credit balance existing on their account up to a figure set by the UK government.<sup>433</sup> Prisoners of war may elect to have the credit balance on their account remitted back to their home nation(s) as a payment to their dependants and procedures are set out in Geneva Convention III for payments to be made to next of kin of a prisoner of war in their own country.

## The canteen fund

10D.13. The commandant is to ensure that profits from the CPERS holding facility canteen and from the sale of any messing by-products are credited to the prisoners of war canteen fund. This will be used to purchase stock for the

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429 GC III, Art 61.

430 GC III, Art 63.

431 GC III, Art 62. These figures are based on 1949 rates of pay and would have to be revised for any particular operation.

432 GC III, Art 58.

433 GC III, Art 63.

canteen, meet expenses incurred for the general benefit of prisoners of war and also to pay the prisoners of war representative and their assistants.<sup>434</sup>

10D.14. The fund is to be operated as a Service non-public fund and audited at six-monthly intervals. The prisoners of war representative is to be allowed reasonable access to the books of the fund, as are the delegates of the International Committee of the Red Cross and the protecting power. The prisoners of war representative is to be permitted to attend the audit proceedings and any observations which they may wish to make are to be attached to the audit board's report.

### Employment of prisoners of war

10D.15. Geneva Convention III allows the employment of prisoners of war in physical labour.<sup>435</sup> The objective is, by providing physical and mental stimuli, to keep them in a sound state of physical and mental health. The commandant will ensure that prisoners of war engaged in work will be issued with whatever special or protective clothing is appropriate for the particular task for which they are employed.<sup>436</sup> The commander must plan to provide these items, separate from the supply chain to non-CPERS handling organisation units, at the start of the operation.

10D.16. The Operations Directorate in the Ministry of Defence (MOD) will provide the requisite policy where the employment of prisoners of war is envisaged. It is unlikely that there will be wide opportunities for employing prisoners of war who are held in a CPERS holding facility located in theatre. Prisoners of war will be required to carry out work, however, where there is an opportunity for employment. Such employment must take into account their rank, gender, age and physical aptitude, as follows.<sup>437</sup>

- a. **Officers.** Officers cannot be compelled to work but they may volunteer. The commandant will provide work of a suitable nature, if it is available.
- b. **Warrant and non-commissioned officers.** Warrant officers and non-commissioned officers will only be required to carry out work of a supervisory nature. They may volunteer for other types of work which they will be allowed to perform, if it is of a suitable nature.

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434 GC III, Art 28.

435 GC III, Art 49.

436 GC III, Art 27.

437 GC III, Art 49.

- c. **Other ranks prisoners of war.** Other ranks will be required to carry out any work that is consistent with Geneva Convention III.
- d. **Female prisoners of war.** Female prisoners of war are to be considered for work in the same manner as male prisoners of war with the exception that:
- o they are only to be employed in supervising male prisoners of war who, prior to their capture, they could have commanded in the field – the same restriction applies to male prisoners of war supervising female prisoners of war; and
  - o pregnant prisoners of war are not to be employed on any work that might, directly or indirectly, endanger their health or that of their unborn child.
- e. **Juveniles.** May be employed in light work only.

10D.17. **Medical examinations.** Medical staff are to examine all ranks of prisoners of war before they commence work and thereafter at least once a month.<sup>438</sup> Medical staff are to grade prisoners of war as a result of these inspections as either:

- fit for heavy work;
- fit for light work; or
- not permitted to work.

In accordance with good medical practice, documentation of this examination is to be regarded as medical records and treated accordingly in terms of storage and confidentiality. Clearly, if there is a change in the medical condition of the CPERS, a further examination should be conducted to determine fitness for employability and the medical records updated accordingly.

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438 GC III, Art 55.

## Work categories

10D.18. **Suitable work.** In addition to work involved in constructing, administering, managing and maintaining a CPERS holding facility, the commandant can compel prisoners of war to carry out the following work:<sup>439</sup>

- agriculture;
- producing or extracting raw materials, except metallurgical or chemical processes or similarly dangerous processes;
- manufacturing industries, with the exception of manufacture of machinery or metallurgical or chemical processes and those that have military character or purpose;
- public works and building operations that have no military character or purpose;
- transporting and handling stores, although prisoners of war are not to be employed in transporting or handling stores specifically consigned to units engaged in military operations;
- commercial business and arts and crafts;
- domestic service including working in a clothing repair shop, laundry, bakery or on food preparation and cooking; or
- public utility services that have no military character or purpose.

10D.19. **Unhealthy or dangerous work.** Prisoners of war are not to be employed in work which is dangerous or presents a risk to health.<sup>440</sup> Each specific task, rather than the industry as a whole, should be considered when making an assessment of the danger inherent in the work. Applying UK Health and Safety at Work risk assessments and providing appropriate training, safety equipment or protective clothing, can render an otherwise potentially dangerous task safe. Prisoners of war are not to be employed in the following circumstances, unless they are volunteers:

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439 GC III, Art 50.

440 GC III, Art 52.

- tasks requiring physical exertion beyond the normal capabilities of the average person;
- involvement in dealing with explosives (for example, mine clearance);
- using machinery which, without appropriate training or necessary skills or knowledge, is dangerous; or
- work at dangerous heights.

10D.20. **Voluntary work.** Prisoners of war who are volunteers, and demonstrate that they have training in a specific area, may be considered for employment in the above areas. The risks to which prisoners of war would be exposed in such work are not to be greater than that which would be accepted for our UK Armed Forces engaged in the same task. The MOD must lay down the employment policy for mine clearance or other explosive ordnance disposal duties prior to prisoners of war commencing such work.

10D.21. **Humiliating work.** Prisoners of war may not be engaged in work that would be regarded as being humiliating for a member of our Armed Forces.<sup>441</sup> This does not include tasks such as the cleaning of latrines or the operating of sewage facilities, which, while unpleasant, are not in themselves humiliating.

## Payment for work

10D.22. The commandant is to ensure the following.

- a. Prisoners of war who work are paid a fair working wage. Prisoners of war and their governments must be informed, through the protecting power, of the rate that has been set.<sup>442</sup> This wage is to be remitted directly to the prisoner of war in UK currency.
- b. Prisoners of war who are permanently engaged in work connected with the administration and running of the CPERS holding facility, and those retained personnel involved in chaplaincy and

.....  
441 GC III, Art 52.

442 GC III, Art 62. The rates of pay relate to 1949 wages and would need to be revised for any particular operation.

medical duties, are paid.<sup>443</sup> Prisoners of war involved in occasional fatigue duties are not eligible for payment.

c. The prisoners' representative and their staff are paid at a rate agreed between the prisoners of war representative and the CPERS holding facility commandant. These payments are to be made out of the canteen profits fund. Where such a fund does not exist, the UK is to pay a fair rate for the duties carried out by the prisoners of war representative. Payment in all cases is to be made on a weekly basis.

### Working conditions

10D.23. Within the constraints of operations, and as far as possible, the provisions of the UK Health and Safety at Work legislation will guide prisoners of war's working conditions. Conditions must not be of a lesser standard than those enjoyed by members of our Armed Forces or of UK civilians engaged in similar work.<sup>444</sup>

10D.24. **Hours of work and rest periods.** The commandant is to ensure that the length of the prisoners of war working day, including travelling time, is not to exceed that which would be permitted for civilians employed on the same task and is to take into account local climatic conditions.<sup>445</sup> In setting the length of the prisoners of war's working period, the following general guidelines are to be observed.

- a. Prisoners of war are not to work in excess of permitted hours for local civilian workers.
- b. A rest period of one hour is to be allowed in the middle of the working day.
- c. Prisoners of war are to be allowed a period of 24 hours rest once a week. This rest period may be taken on a Sunday or on a day of rest usual in the prisoner of war's country of origin or dictated by their religion or traditions.

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443 See Chapter 1, Section 5.

444 GC III, Art 51.

445 GC III, Art 53.

- d. Each prisoner of war who has worked for a full year is to be allowed a rest period of eight consecutive days. They are to be paid for this eight day period at their normal working rate.
- e. If methods of labour, such as piece work, are employed, prisoners of war are not to be allowed to work excessively long hours.<sup>446</sup>
- f. Prisoners of war should not be away from the CPERS holding facility, or labour camp if this is established, for a period greater than 12 hours, including travelling time.

## Labour camps

10D.25. There may be occasions when, for reasons of convenience, prisoners of war may be located at a subsidiary facility nearer to their place of work and separate from the CPERS holding facility to which they belong. In such cases the following instructions apply.<sup>447</sup>

- a. In general, the organisation and administration of subsidiary facilities is to conform to that of the parent CPERS holding facility. This includes (but is not limited to) the rules on accommodation, hygiene, food, medical care, correspondence and parcels.
- b. Subsidiary facilities may be commanded by a warrant officer of the regular forces but they remain under the control and administration of the main CPERS holding facility.
- c. The commandant of the main CPERS holding facility retains disciplinary control of prisoners of war in a subsidiary facility. They also remain responsible for the correct application of the Geneva Conventions to those prisoners of war. They may not delegate these powers and responsibilities to the commander of the subsidiary facility.
- d. The commandant is to maintain records of all prisoners of war who have been detached to subsidiary facilities.

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446 GC III, Art 53.

447 GC III, Art 56.

e. Subsidiary facilities may be visited by representatives of the protecting power, the International Committee of the Red Cross delegates and other relief organisations, as well as retained medical personnel and chaplains.

f. Prisoners of war officers will be stationed in labour camps to carry out administration and may be elected as prisoners' representatives.<sup>448</sup>

### Accidents at work

10D.26. If a CPERS has an accident at work, medical assistance should be requested immediately with the aim of providing immediate treatment as required. In addition, when a CPERS has incurred illness or injury caused by work in which they are employed, the medical staff are to provide them with a certificate stating the nature of the injury, how it was sustained and the treatment given for it. The commandant must sign the certificate and a medical officer must authenticate the record of treatment. Facility staff must give one copy of the certificate to the CPERS, retain another copy within the CPERS medical documents and forward the other to the Prisoners of War Information Bureau after obtaining appropriate consent. Medical staff should be careful to consider confidentiality issues surrounding the information provided in the certificate. In cases of doubt, advice should be sought from higher medical authority. Medical consent should be obtained in accordance with the advice in Chapter 3. The facility staff are to advise the CPERS that any claim for disability is to be pursued through the power in whose forces they were serving at the time of capture.<sup>449</sup>

10D.27. If a prisoner of war makes a claim for compensation for a work-related disability, facility staff must forward it to the Prisoners of War Information Bureau, who will forward it to the prisoner of war's parent nation for settlement. If the Senior British Medical Officer opines that a prisoner of war has sustained a disability which is directly attributable to the prisoner of war's work, the prisoner of war may be entitled to whatever benefits are available under UK legislation for occupational accidents or diseases.<sup>450</sup>

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448 GC III, Art 79.

449 GC III, Art 54.

450 GC III, Art 54.

## Private employment

10D.28. The UK may contract out prisoners of war to work for private employers.<sup>451</sup> The MOD will enable such arrangements to be put in place. When prisoners of war work for private employers, their position is safeguarded by the following instructions.

- a. The treatment of prisoners of war working for private employers must not be any less favourable than that specified in Geneva Convention III.
- b. Prisoners of war continue to be under the direct authority of the commandant who retains responsibility for all aspects of their support, care, treatment and pay.
- c. Prisoners of war have the right to deal with the prisoners' representative of the CPERS holding facility to which they belong.
- d. A private employer has no disciplinary powers over prisoners of war and may not use arms against them if they try to escape, except in their inherent right of self-defence.
- e. Prisoners of war working for a private employer must either be given their parole or must be guarded.
- f. Although the commandant retains the ultimate responsibility for the employed prisoners of war, they may delegate aspects of this, such as providing food and accommodation, to the private employer. This does not absolve them from ensuring that the delegated arrangements satisfy the provisions of Geneva Convention III. The commandant and the private employer are to set out the precise details of such delegation in an agreement, which is to be agreed by J1 at the Joint Task Force Headquarters.

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451 GC III, Art 57.

## Forms

10D.29. In addition to the standard CPERS documentation, the following forms must be completed for all prisoners of war when the appropriate circumstance exists.

- The CPERS casualty report (CPERS CASREP). (Annex 3C)
- The property receipt. (Annex A, Section 2)
- UK capture card. (Annex A, Section 1)
- F/PW 779 – Initial capture report. (Annex 7B)
- F/PW 128 – Prisoners of war personnel record. (Annex 10C)
- CPERS report (CPERSREP). (Annex 13A)
- CPERS notification of casualty (NOTICAS). (Annex 13C)
- Checklist in the event of a captured person's death. (Annex 13E)

## Annex 10E

# Additional rights and provisions of internees

10E.1. During an international armed conflict, in accordance with Geneva Conventions IV, additional rights and provisions must be granted to internees. The paragraphs below are not exhaustive.

## Financial matters

10E.2. **Allowances.** The UK is required to pay internees maintenance and regular allowances to enable them to purchase items such as tobacco and toiletries. Ministry of Defence (MOD) Service Policy is responsible for paying allowances. Additionally, internees may also receive allowances from the power on which they depend, the protecting power, relief organisations and their families, as well as any income from property due to them under the laws of the UK. Allowances from the state to which they owe allegiance may vary in accordance with different categories of internees (such as the infirm, the sick and pregnant women) but no other discrimination in allocation is permissible.

10E.3. **Internees' accounts.** The UK must keep an account for each internee, which is to be credited with the following:

- allowances paid;
- wages earned;
- remittances received; and
- sums taken from internees.

10E.4. **Managing internees' accounts.** Facility staff must provide internees with reasonable facilities for consulting, and obtaining copies of, their accounts. They must also provide a statement of accounts to the protecting power on demand, which must also accompany any transferred internee.

10E.5. **Disposal of funds.** Subject to any UK legislation in force, staff are to provide internees with facilities to enable them to remit money to their families and other dependants. The staff should also allow them to withdraw amounts necessary for their personal expenses, subject to any limits fixed by the UK.

10E.6. **Welfare fund.** Profits from canteens go into a welfare fund for each facility for the benefit of internees. The internee committee has the right to check how the fund is being managed. On the closure of a CPERS holding facility, the balance of the fund is to be transferred to the welfare fund of another facility for internees of the same nationality. If there is no such facility, it is to be transferred to a central welfare fund for the benefit of all internees remaining in UK captivity. In the event of a general release of internees, the balance of the fund may be retained by the UK unless the states concerned otherwise agree.

## Employment of internees

10E.7. **Labour.** Internees may not be set to work, unless they volunteer. Work which is of a degrading or humiliating character is forbidden, as is work connected with military operations.<sup>452</sup> The UK has the right to employ interned doctors, dentists and other medical personnel in their professional capacity on behalf of fellow internees, and to employ internees for administrative and maintenance work in internment CPERS holding facilities.

## Forms

10E.8. In addition to the standard CPERS documentation, the following forms must be completed for all internees.

- CPERS capture card. (Annex A, Section 1)
- CPERS record. (Annex A, Section 2)

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<sup>452</sup> Geneva Convention IV 1949, Articles 51, 95 and 96.

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## Notes

10E



# Chapter 11

Chapter 11 provides an overview of intelligence exploitation activity so that capturing personnel, escorts and CPERS holding facility staff can clearly differentiate their work from that of the exploitation specialists, and also understand and safely manage the coexistence of the CPERS holding facilities and this activity.

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Only qualified and current tactical questioners can conduct the tactical questioning of CPERS, who may be willing or unwilling to speak.

”

## Chapter 11

# Materiel and personnel exploitation of captured persons

## Section 1 – Distinction

11.1. Captured persons (CPERS) provide an opportunity to obtain intelligence on enemy actions, networks, structures, capabilities and intentions. Such intelligence gathering is conducted by specialists as part of materiel and personnel exploitation (MPE).<sup>453</sup> The exploitation of CPERS for intelligence value generates additional requirements beyond those of merely holding CPERS in captivity. To maximise the chances of successful intelligence exploitation, the CPERS holding facility staff and exploitation personnel must have an understanding of the respective roles and aims, while avoiding a conflict of interest.

**Intelligence exploitation of CPERS by tactical questioning and interrogation is a specialist skill that is only to be exercised by trained and competent staff.**

11.2. Intelligence exploitation not only involves questioning CPERS themselves, but also thoroughly examining and assessing all associated materiel including:

- weapons;
- electronic and communication devices;
- documents; and/or
- clothing or uniform.

.....  
<sup>453</sup> The exploitation of CPERS and their associated materiel are recognised elements of materiel and personnel exploitation (MPE).

11.3. Exploitation specialists are required to operate within the same framework as others coming into contact with CPERS; they must always comply with the basic principles of humane treatment and be fully aware of the prohibited acts as set out in Chapter 2. Ultimately, no physical or mental torture, nor any other form of ill treatment, may be inflicted on CPERS to secure information from them.

11.4. Exploitation is a process, not an individual event and is doctrinally divided into Levels 1, 2 and 3, spanning activity from the target location to the UK home base.

a. **Level 1.** Level 1 is the tactical collection, processing, speedy dissemination and dynamic re-tasking of intelligence capability carried out at the point of capture. The process may also include selecting CPERS for further exploitation. Conventional or specialist units conduct exploitation of personnel and materiel to provide tactical commanders with immediate actionable intelligence. Materiel can also be sent to Level 2 or 3 for further exploitation.

b. **Level 2.** Level 2 is conducted at an intelligence exploitation facility away from the immediate point of capture but still within the planning and operations cycle of the supported formation. The UK does not currently have any Level 2 facilities but can use other nations' facilities if an agreement is in place.

c. **Level 3.** Level 3 is delivered by a strategic multi-source fusion and single source processing capability outside of the theatre of operations, normally based in the UK home base. This facility allows further scientific and technical exploitation of materiel by dedicated staff with access to a range of specialist capabilities. It provides analysis of greater depth.

The basic principles of humane treatment and the prohibited acts as set out in Chapter 2 will apply at all stages of exploitation.

## Section 2 – Questioning

11.5. All personnel, including tactical questioners and interrogators, must treat all CPERS humanely during all stages of capture, including during tactical questioning and interrogation.

11.6. In the majority of cases, until the exploitation of the CPERS by tactical questioning or interrogation is complete or the CPERS is transferred into the holding facility or returned to the host nation, it is essential that the rapport-building effort is led by the tactical questioner or dedicated interrogator.<sup>454</sup>

11.7. As stated in Chapter 2, Section 1, CPERS are likely to be feeling certain pressures, either self-induced or arising out of the circumstances of capture. The self-induced pressures may be extremely useful levers for tactical questioners and interrogators, particularly when combined with thorough exploitation of the circumstances of their capture and any materiel taken during capture. Provided our UK Armed Forces treat CPERS in accordance with all domestic and international law, there is no requirement to reduce these self-induced pressures. However, they must not be actively prolonged or increased. Only the dedicated tactical questioner or interrogator should provide reassurance to mitigate such pressures.

11.8. Any Service person may question a willing individual to establish identity, status, age and any information directly and immediately pertaining to force protection. This questioning of an individual during, for example, stop and search procedures, may then lead to a decision to detain, therefore depriving the individual of their liberty. If at this stage the individual is unwilling to speak then they should be passed on to tactical questioners or interrogators.

11.9. Tactical questioning and interrogation have similarities but are governed by separate policies and are carried out at different points during the CPERS handling process.<sup>455</sup> Tactical questioners and interrogators are to operate in accordance with all applicable law and relevant policies, which must be periodically reviewed for any theatre of operations and authorised by Chief of Defence Intelligence.

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454 Not all CPERS will be subject to intelligence exploitation, for example, children and vulnerable CPERS.

455 *Defence Tactical Questioning Policy*, 12 August 2020 and *Defence Interrogation Policy*, 12 August 2020.

## Tactical questioning

11.10. Only qualified and current tactical questioners<sup>456</sup> can conduct the tactical questioning of CPERS, who may be willing or unwilling to speak. Thus, for pre-planned detention operations, tactical questioners must be included in the deployed forces. Tactical questioning is defined as: the obtaining of information of a tactical nature from captured persons, the value of which would deteriorate or be lost altogether if the questioning was delayed.<sup>457</sup>

11.11. Tactical questioning also facilitates the triage and selection of CPERS for interrogation, detention or immediate release. Importantly, tactical questioning forms the foundations upon which further personnel exploitation is built. Tactical questioning is conducted by non-intelligence specialists who have received specialist training at Defence Intelligence Training Group (and remain in date for two years thereafter). They are part of the units they support and should deploy on unit patrols and pre-planned detention operations.

11.12. Tactical questioning is most effective and efficient when conducted at, or as close as operationally possible to, the point of capture, both physically and in time.<sup>458</sup> The tactical questioner may make use of materiel obtained at the point of CPERS capture to question the CPERS to gain valuable short-term intelligence for immediate use and to select individuals for longer-term interrogation. The tactical questioner may use eye witnesses and the results of any on-site materiel exploitation to quickly assess the veracity of any alibi provided by CPERS. On deployment, all field force units are to have qualified tactical questioning personnel at a level pre-determined by Permanent Joint Headquarters (PJHQ).<sup>459</sup>

## Interrogation

11.13. Interrogation is defined as: the systematic longer-term questioning of a selected individual by a trained and qualified interrogator.<sup>460</sup> Interrogation must only be undertaken by trained, qualified and authorised personnel. Interrogation must be conducted in accordance with UK policy and guidance reflecting UK domestic and international law. Interrogators will have received

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456 Tactical questioners are defined as: personnel trained in tactical questioning delivered by Defence Intelligence Training Group.

457 Joint Doctrine Publication (JDP) 0-01.1, *UK Terminology Supplement to NATOTerm*.

458 See Chapter 7 for guidance on point of capture.

459 Or other Joint Force Headquarters.

460 JDP 0-01.1, *UK Terminology Supplement to NATOTerm*. Interrogators are defined as: personnel trained in interrogation delivered by Defence Intelligence Training Group.

specific training to ensure coherence within the intelligence collection framework. The Ministry of Defence (MOD) is responsible for providing formed teams to deliver an interrogation capability. All CPERS are to be medically examined prior to interrogation.

## Juveniles and children

11.14. Captured children<sup>461</sup> are defined as: captured persons aged 14 and under<sup>462</sup> and they **are never to be tactically questioned or interrogated**. Captured juveniles are defined as: captured persons aged 15, 16 or 17. Unless operation-specific guidance is issued, it is Defence policy that CPERS under the age of 18 are not to be tactically questioned or interrogated except in exceptional circumstances, such as when there is an imminent threat to life. Where our Armed Forces are unsure whether the individual is a child or a juvenile they should treat them as a child and not subject them to tactical questioning or interrogation.

## Section 3 – Intelligence exploitation

11.15. Intelligence exploitation is used to contribute to the overall intelligence effort, which in turn promotes understanding and aids decision-making. Such exploitation can provide actionable intelligence to improve force protection, influence joint action, or be used to develop countermeasures and tactics, techniques and procedures. Based on a modular, scalable, deployable, capability exploitation effort, this may examine sites, individuals or materiel (including documents, media and weapons) using a range of forensic, biometric, questioning, chemical, financial and other techniques. Exploitation is an agile and adaptive capability, the conduct of which should be regularly reviewed and may change during an operation.

11.16. Questioning of an individual may extend over hours, days or even weeks should the subject warrant it; it requires a significant level of support and resource to function effectively. For some activities a guard and culturally appropriate escort force will be required, and although they do not take part in any exploitation, they must be briefed on their specific role and task. Exploitation will take place in a separate location from the CPERS holding

461 It should be noted that Additional Protocol II, Article 4 to the Geneva Conventions states that child soldiers younger than 15 years of age who are captured by the enemy continue to enjoy the special protection granted to children by the Law of Armed Conflict.

462 This is a modified definition and will be updated in JDP 0-01.1, *UK Terminology Supplement to NATO Term*.

facility; each will be staffed separately and operate under separate governance regimes, as detailed in Chapter 10, Section 1. However, for practical purposes the two facilities may be physically collocated to allow both organisations to conduct their functions effectively and efficiently. The questioning area must contain observation and recording equipment.

11.17. It is important therefore that those holding CPERS and those exploiting CPERS each understand their respective environments and that all persons are aware of their respective functions, the extent of their responsibilities and the governance regime to which they are accountable.

11.18. The desire to exploit CPERS for military gain can create tension between urgent operational imperatives, legal and policy constraints. The consequences of getting this balance wrong are serious. Allegations of the abuse or mistreatment of CPERS may have strategic implications and form the basis of hostile propaganda, undermine the credibility of our Armed Forces, reduce domestic support, lead to prosecutions, long and expensive inquiries and invite international condemnation. It may also entail criminal responsibility for the perpetrator and commander (including for war crimes) and an obligation to compensate the victim. It is recognised, therefore, that while intelligence exploitation can present significant opportunities, it can also create increased operational, reputational and strategic risk. It is essential that commanders and exploitation specialists appreciate this and understand the nature of their own, as well as external, tasks and risks.

**All intelligence exploitation activities relating to CPERS must be lawful and comply with UK doctrine and policy.**

11.19. In particular the commander must ensure that there is suitable accommodation available for holding and exploitation, that a guard and escort is provided, and that an appropriate degree of assurance and independent scrutiny is offered in respect of activities involving CPERS. They must take into account cultural sensitivities especially regarding feeding, sanitary and religious practice. They must also ensure that adequate provision is made for women and, if required, accompanying children.

## Section 4 – Division of responsibilities and roles

11.20. It is essential that hosting units and formations understand the requirements of the exploitation staff assigned to them and appreciate how the capability operates, particularly the baseline information that is required on CPERS and any associated urgency for exploitation. It is particularly important that CPERS are, wherever possible, accompanied to exploitation by the individual present at the point of capture, so that they can describe to exploitation staff the circumstances and context of capture. Where this is not possible, a written narrative relating events and context is to be passed on as soon as possible. In any event, all activities relating to CPERS and captured materiel are to be compliant with relevant handling, evidential and auditing procedures, as laid down in theatre directives issued by PJHQ.<sup>463</sup>

11.21. If CPERS are to be interrogated, CPERS holding facility staff will escort the individuals to the exploitation location. Depending on local standard operating procedures, security concerns and force manning levels, interrogators may request that escorts remain in the vicinity of the CPERS, or they may release the escorts until CPERS need to be returned to the holding facility. Transfer of CPERS between interrogators and CPERS holding facility staff must be officially documented.<sup>464</sup> During exploitation of CPERS and while individuals are subject to exploitation, it is the responsibility of the interrogators to ensure the standards of treatment applicable to CPERS are adhered to, as set out in Chapter 2.

11.22. CPERS holding facility staff and exploitation staff should present and maintain a professional demeanour that will not discourage CPERS from bringing a complaint to them.

11.23. Attempts by CPERS to engage in conversation with holding facility staff are to be reported to exploitation staff, along with any information obtained by passive observation. Holding facility staff are, however, prohibited from helping prepare CPERS prior to questioning, regardless of how light or innocent their influence may seem. The ‘firewall’ between holding facility staff and the exploitation staff preserves the UK’s military, legal and humanitarian standards.

.....  
463 Or other Joint Force Headquarters.

464 The only authorised purpose for escorts to remain in the vicinity of the interrogation room is to provide control of the CPERS. Holding facility staff are not to be in the interrogation room during exploitation, or in any way set conditions for such activity.

11.24. CPERS must be kept under constant medical review by suitably qualified medical professionals. The medical review procedure is paramount to ensure that there is no adverse effect on the mental or physical health of the CPERS. The minimum standards of treatment described in Chapter 2 must be met, with particular attention being given to the number and duration of exploitation sessions. The CPERS holding facility commandant may impose a routine for each CPERS once it has been agreed by the Force Provost Marshal and the person in charge of exploitation. The routine must adhere to all relevant international and domestic law.

11.25. Exploitation staff must understand that individual constraints on a CPERS that may not generally seem unreasonable in isolation may become such when evaluated in the totality of the circumstances or when an accumulation occurs. For example, it is reasonable to wake a CPERS to exploit the arrival of new intelligence but this should neither become the norm, nor impact upon the irreducible minimum for sleep as detailed in Chapter 2, Section 1.

## Section 5 – Command and governance

11.26. The chain of command for the CPERS holding facility and the chain of command for intelligence exploitation activity are to be separate, but they must also maintain a close liaison and mutual understanding. In the event of a difference of opinion as to what is permissible within the legal and policy framework, the commander should seek advice from the Detention Authority, legal and policy advisers, Service police, and the officer in charge of intelligence exploitation to resolve the issue.<sup>465</sup>

**The CPERS holding facility and the intelligence exploitation facility must have separate and distinct command structures.**

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<sup>465</sup> The Case Management Board will exercise oversight of human intelligence operations, including exploitation by tactical questioning and interrogation.

## Section 6 – Integrity of evidence within matériel and personnel exploitation

11.27. Exploitation of CPERS is an intelligence activity to benefit military or wider security operations.<sup>466</sup> It is often the case that best practice for collecting and handling matériel and personnel for exploitation will follow the same procedures as those used for chain of custody and evidence management. Handling CPERS and associated matériel during in-processing, and all subsequent exploitation activity, must therefore be forensically pure and maintain the continuity of evidence.

11.28. In certain situations, where the threat is significant, or the demand for intelligence is urgent, purity of evidence may be difficult to achieve or maintain. The desire to conduct immediate intelligence exploitation and the responsibility to preserve evidence for prosecution cannot always be achieved simultaneously. Guidance on where the balance is to be struck will be provided to the commander in directives relevant to the operational theatre.

11.29. Within security and policy constraints, reports from matériel and personnel exploitation may be disseminated to relevant law enforcement agencies to assist in the investigation of serious crime. These reports, while not designed to constitute evidence per se, may shape and inform wider investigations, and contribute to the construction of sound prosecution cases. The fair trial rights of any criminal suspect must in all cases be fully preserved where investigation and prosecution result.

.....  
 466 Under certain scenarios the output can be used to provide information and evidence to support law enforcement organisations and prosecuting authorities in their investigations of serious domestic crime, war crimes and funding through transnational organised crime in conflict.



# Chapter 12

This chapter covers the final stages in the CPERS handling process, providing guidance on transfer, release and repatriation. In accordance with the Geneva Conventions, specific rules apply to the release of prisoners of war and internees, as set out later. The standards and requirements of treatment set out in Chapter 2 are applicable during the transfer, repatriation or release of all CPERS regardless of categorisation.

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Transferring CPERS will often be necessary in the course of operations, for example, for administrative reasons, or because a CPERS holding facility is reaching capacity.

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## Chapter 12

# Transfer, repatriation or release

## Section 1 – Principles of transfer

12.1. Factors to be considered for transfers will vary depending upon the categories of captured persons (CPERS) involved and the reasons behind the transfer. Legal and policy advice will invariably be required before any transfer, and commanders should bear in mind the potential legal, policy and practical complexities of transfer arrangements.

12.2. Transferring CPERS will often be necessary in the course of operations, for example, for administrative reasons, or because a CPERS holding facility is reaching capacity. Generally, there are five types of transfer.

- a. Transfer from one UK CPERS holding facility to another.
- b. Transfer from a UK CPERS holding facility to a holding facility run by another state, or officials of another state or partner forces.
- c. Transfer to the host nation.
- d. Transfer from a front line UK medical facility to a neutral state's medical facility. There is no legal obligation on the UK to transfer injured or sick persons to the UK for treatment. If the medical staff contemplate transfer, this would have to be a policy decision and they should seek legal advice as soon as possible.<sup>467</sup>
- e. Repatriation to country of origin or residence, including for potential prosecution.

.....  
467 See Chapter 3 for guidance on medical support to CPERS.

## Liaison with other states

12.3. Transferring CPERS from UK facilities to facilities run by other states' military forces (including allies and coalition partners), law enforcement agencies or the host nation requires close liaison between the UK and the receiving state at the highest levels. This is essential to ensure that the UK abides by certain legal obligations, for example, non-refoulement (see paragraph 12.4). The international legal framework regulating CPERS should be broadly agreed by coalition partners and allies. However, the UK must take into account and plan that there may be some significant legal and policy differences and constraints.

12.4. Under the Ministry of Defence (MOD) *Strategic Detention Policy*, the UK extends the principle of non-refoulement to CPERS and therefore refrains from transferring any CPERS to any state (including the host nation authorities of the CPERS) where there is a real risk at the time of transfer that the CPERS will suffer torture or cruel, inhuman or degrading treatment or be subjected to unlawful rendition or flagrant denial of justice.<sup>468</sup> Additional restrictions on transfer may be imposed where MOD policy dictates it or where the European Convention on Human Rights applies to those CPERS held in UK holding facilities, especially if they are likely to be tried subsequently for an offence which carries the death penalty.

**The UK will not transfer any CPERS to any state where there is a real risk at the time of transfer that the CPERS will suffer torture, serious mistreatment or be subjected to unlawful rendition.**

12.5. The conditions surrounding the transfer and movement of CPERS will be subject to case-specific instructions, must be effected humanely<sup>469</sup> and must, where compatible with necessary security requirements, be of the same standards as those relating to the movement of our Armed Forces as detailed in Chapter 8.<sup>470</sup> Similarly, the conditions under which CPERS (who have been transferred) are held by another state should be comparable with the conditions under which such individuals were being held by the UK.

.....  
468 *MOD Strategic Detention Policy, 2020.*

469 Geneva Convention III 1949 (GC III), Article (Art) 46.

470 Additionally, the following publications are concerned specifically with the reporting and movement of CPERS: Joint Service Publication (JSP) 751, *Casualty and Compassionate Policy* and JSP 756, *Tri-Service Personnel Tracking and Operational Location Policy and Reception Arrangements for Military Patients.*

12.6. Depending on the legal framework, the UK as the capturing power may remain responsible for the standards under which those captured by our Armed Forces are held captive by other states. Our Armed Forces may remain responsible for standards in which CPERS are held after CPERS are transferred to other state authorities or CPERS holding facilities operated by other states. The UK must ensure close liaison with other states' holding facility staff and must be prepared to take decisive action where standards are not upheld.

## Transfers between UK captured persons facilities

12.7. The commander should ensure that the following principles apply to all transfers between CPERS facilities belonging to the UK.

- a. Every CPERS is entitled to the basic standards of treatment from the UK, as set out in Chapter 2, at all times, including during transfer.
- b. Our Armed Forces must:
  - o take adequate precautions to ensure the safety of CPERS throughout the journey, especially if this involves travel by sea or air;
  - o hand over copies of all documentation and evidence with the CPERS;
  - o take into account the climatic conditions to which CPERS have become accustomed and take steps to ensure that the transfer is not prejudicial to their health;
  - o only transfer sick or wounded CPERS where it is necessary to ensure their personal safety or to enable them to receive better medical treatment;<sup>471</sup>
  - o retain one set of consolidated data for all CPERS;

.....  
 471 Consideration may be given, following consultation with Provost Marshal (Army), legal and policy advisers, to transfer a CPERS where there are sound reasons for doing so, where the CPERS consents and the quality of their treatment would not be adversely affected.

- o notify CPERS of their new postal address before they are transferred to another facility and in sufficient time to inform their next of kin before their departure;
  - o ensure that CPERS' accounts move with them on or very quickly after transfer;
  - o give CPERS sufficient notice of transfer to enable them to pack their belongings (CPERS may only take personal effects that do not constitute evidence and which they may reasonably carry; personal effects are not to weigh more than 25 kilograms, but this may be further limited by the conditions of transfer);<sup>472</sup>
  - o make a list of all CPERS who are to be transferred before the transfer takes place and send a copy to the Prisoners of War Information Bureau, as contained in Annex 13A<sup>473</sup> – this is mandatory for prisoners of war and internees;
  - o if combat threatens a CPERS holding facility, our Armed Forces are not to transfer CPERS from the facility unless they can be transferred in reasonable safety or unless they are at greater risk by remaining in the facility than by being transferred; and
  - o the CPERS holding facility commandant and the CPERS representative are to arrange for the subsequent forwarding of any personal or community property which the CPERS have been unable to take with them to their new location.
- c. Our Armed Forces must not:
- o handover CPERS without the proper documentation and receipts;
  - o carry out transfers with the intention of hindering or delaying the repatriation or release of CPERS; or
  - o transfer sick or wounded CPERS if to do so would endanger their health, unless their safety imperatively demands it.

.....  
472 GC III, Art 48.

473 GC III, Art 122; Geneva Convention IV 1949 (GC IV), Arts 136 and 137.

## International transfers

12.8. As a general rule, while the UK may transfer prisoners of war to locations outside the territory where they were first captured, the UK is not permitted to transfer civilian internees or detainees to locations outside the territory where they were first captured.<sup>474</sup> In the case of CPERS captured on the high seas, the commanding officer of the unit must seek further advice from the appropriate maritime legal adviser. Except for their repatriation or return to their country of residence during or after hostilities, our Armed Forces must not transfer detainees to another state without specific MOD approval.<sup>475</sup> If there are compelling medical reasons for a proposed transfer outside this territory, commanders must seek further legal advice from MOD legal advisers.

12.9. Should the receiving state fail to carry out its obligations in any important respect, our Armed Forces or the MOD should, and in an international armed conflict must, take effective measures to correct the situation or to request the return of the CPERS affected.

12.10. Transferring CPERS between the UK and another state will be subject to the principles set out above and the following additional constraints.<sup>476</sup>

- a. Our Armed Forces must not transfer CPERS captured by the UK to another state without specific authority from the MOD. Commanders are to seek authorisation, even in the case of a temporary transfer of CPERS, for example, to alleviate overcrowding in a UK CPERS holding facility.
- b. Specific authority of the MOD is required before our Armed Forces can receive into their captivity CPERS captured by another state.<sup>477</sup>
- c. The UK will refrain from transferring any CPERS to any state where there is a real risk at the time of transfer that the CPERS will suffer torture or cruel, inhuman or degrading treatment or punishment or be subjected to unlawful rendition or flagrant denial of justice. The test is whether there are, at the time of transfer, substantial grounds for believing that the CPERS faces such risks.<sup>478</sup>

474 GC IV, Arts 49 and 77.

475 This would not prevent the movement of protected persons to a neutral country even though they are non-residents. GC IV, Art 35.

476 GC III, Arts 12 and 45; GC IV.

477 Specific memoranda of understanding to enable this may be in place in certain operations, especially where the UK is operating as part of a coalition.

478 *MOD Strategic Detention Policy, 2020.*

d. If there is any concern that the CPERS might be abused by the authorities to whom handover is planned, our Armed Forces should delay the handover and seek legal advice.<sup>479</sup> If our Armed Forces witness any abuse of a CPERS who they have handed over, they should try to stop the abuse (unless to do so would endanger their lives) and report it as soon as possible through our Armed Forces' chain of command. In no circumstances should our Armed Forces simply ignore abuse. Specific arrangements for reporting, recording and following-up allegations of abuse by other states' authorities should be promulgated by Permanent Joint Headquarters (PJHQ) for each operation.

e. Our Armed Forces are to treat CPERS transferred from the captivity of another state into UK captivity in the same way as CPERS initially captured by our Armed Forces.

f. Our Armed Forces must give consideration to the international instruments to which the receiving state may be party and whether and how these instruments are applied by the receiving state. Examples include the United Nations Convention against Torture and International Covenant on Civil and Political Rights. Particular importance must be given to these instruments and their application in circumstances where the Geneva Conventions do not apply, such as during counter-piracy operations.

12.11. If an individual is to be transferred they should be informed as soon as possible with due regard being paid to operational security. In addition, they should be allowed the opportunity to raise any concerns, particularly regarding refoulement (see paragraph 12.4). If such a claim is made, it should be investigated to establish whether or not the transfer may proceed.

## Section 2 – Transferring detainees

12.12. During operations other than international armed conflict, the provisions for the handling of detainees may vary according to the national laws of the territory in which our Armed Forces are operating, or the specific laws in a maritime operation, or the nature of the operation and the legal framework under which our Armed Forces are operating. Applicable human rights law has to be respected in all circumstances. The provisions below are intended to

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<sup>479</sup> MOD Strategic Detention Policy, 2020.

be illustrative of suggested best practice for our Armed Forces for the transfer of detainees. The provisions will be subject to theatre standard operating procedures. This is a complex area and commanders should seek specialist staff and policy advice at the earliest stages of planning.

12.13. It should be noted that detainees who are accused of offences against international law and/or the ordinary criminal law of another country remain liable to extradition in pursuance of extradition treaties in force and subject to the principle of non-refoulement as expressed in paragraph 12.4. The procedure described in paragraph 12.10 should also be followed.

12.14. If it is proposed to transfer a detainee to a country other than that of which they are a national, then specific authority to do so must be sought from the MOD.

### Handover to the host nation authorities<sup>480</sup>

12.15. Our Armed Forces should, subject to any overriding human rights or international humanitarian law obligations, including the principle of non-refoulement, hand detainees over to the host nation authorities as soon as practicable so that they can be dealt with according to the local judicial system. Detainees initially classified as internees and held within a CPERS holding facility for a period of time may have been reclassified as detainees following a review of their status.<sup>481</sup>

12.16. Our Armed Forces must understand and respect the requirements of the host nation law (in so far as possible, where they are not incompatible with our international humanitarian law and human rights law obligations). Failure to comply with the requirements of the host nation legal process may result in the detainee being released by the host nation. Our Armed Forces should avoid any such release of detainees as it undermines respect for host nation law (in so far as possible, where they are not incompatible with our human rights or other international legal obligations) and defeats the object of detention, which is generally to see the detainee prosecuted under host nation law.

12.17. Our Armed Forces must take care to ensure that detainees are transferred to the appropriate host nation authority. Handover should only

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480 This will invariably be subject to the legal basis for the operation, host nation law and an agreement or arrangement (for example, a memorandum of understanding) with the host nation, which may alter the provisions set out.

481 See Chapter 1, Section 5.

take place as directed by the chain of command, subject to any agreement or arrangement, such as a memorandum of understanding.

**Our Armed Forces should hand detainees over to the local authorities at the earliest opportunity, provided that there is not a real risk at the time of transfer that the detainees will suffer torture, serious mistreatment or unlawful rendition.**

12.18. Handover may take place at any point within the CPERS handling chain, from the point of capture to the CPERS holding facility. Handover at the point of capture will only normally be appropriate for those who have committed minor offences; handover to local police may be appropriate for a low-level criminal detainee, but not for a serious criminal (for example, a murderer, rapist, ethnic cleanser, drugs trafficker or warlord) or an internee. Our Armed Forces may hand over a detainee at the point of capture if the detainee was captured by a joint military and local police patrol, or where transporting the detainee to another facility would cause unnecessary delay. For example, if the detainee was captured in close proximity to a host nation police facility.

12.19. The most likely and preferred scenario is that our Armed Forces will transport the detainee back to the unit holding area where the proper documentation can be completed before handover to the host nation authorities. Unit holding area staff should process and transfer detainees held at the unit holding area to the host nation authorities as soon as practicable and within the guidance timelines of the CPERS handling chain.<sup>482</sup>

12.20. In some circumstances our Armed Forces may transfer detainees after arrival in the CPERS holding facility, perhaps for tactical or intelligence gathering reasons. There may also be cases where handover to the host nation cannot take place immediately, including where:

- the host nation lacks sufficient criminal justice infrastructure to take custody of the detainee, for example, where the courts, police, custodial facilities and lawyers are not operating to an acceptable standard;

.....  
482 See Chapter 6, Section 3.

- there are reasonable grounds to suspect the handover would compromise the safety of the detainee; or
- there is a real risk that the CPERS will suffer torture or cruel, inhuman or degrading treatment or punishment, or be subjected to unlawful rendition or flagrant denial of justice.

## Documentation

12.21. When our Armed Forces hand detainees over to the host nation authorities they must record details of the handover. An example of a record can be found in Annex A, Section 2. This must be retained within the unit and filed with the detainees' records. This is critical to ensure the correct continuity of evidence that will be required for subsequent investigations or prosecution. Our Armed Forces may be required to attend host nation court proceedings as witnesses.

**Our Armed Forces must record and document the details of the transfer of detainees.**

12.22. Our Armed Forces must also provide to the host nation authorities detailed documentation on the circumstances surrounding the capture and any available evidence of criminal behaviour. A copy of the CPERS record at Annex A, Section 2 should also be handed over. Our Armed Forces are not to hand over a detainee without the proper documentation and receipts.

12.23. Where detainees are transferred from the point of capture to the host nation authorities, the capturing Service person must hand over all documentation and evidence, having taken copies and obtaining a receipt, where possible, including the capture report, any written or transcribed witness statements, and physical evidence, where practicable.<sup>483</sup> The capturing Service person must file a report detailing the above. Where all the documentation and evidence cannot be handed over (for example, due to size) the capturing unit must provide photographic evidence and make suitable arrangements for handover at a later date.

.....  
483 See Chapter 7 for various capture forms.

12.24. Where transfer occurs at the unit holding area, the unit holding staff should hand over the detainees together with the documentation and evidence as detailed above, as well as with copies of records of medical checks, physical state, feeding and watering, and copies of any detention records.

### Post transfer monitoring arrangements

12.25. There is no legal obligation upon the UK to track and monitor detainees once transferred to another state, as long as the transfer test (whether there is, at the time of transfer, substantial grounds for believing that there is a real risk that the detainee will suffer torture, serious mistreatment or be subjected to unlawful rendition evident) is satisfied. Nevertheless, the UK government has stated that as a matter of policy, our Armed Forces should track and monitor all detainees who have been transferred for a reasonable period of time, depending on the circumstances as detailed at paragraphs 12.28-12.33.

12.26. Before transferring any detainee to another nation, it is essential that the UK put into place some arrangements for assurance regarding the treatment of the detainee after transfer. The degree of assurance will depend on the circumstances of any particular case. The assurance should be in writing, such as a memorandum of understanding. Additional assurances may also be provided by other means, such as by visits or the presence of a liaison officer. What is appropriate will depend on the circumstances. While each arrangement will be the result of negotiation, consideration will need to be given to the key points listed in Annex 12A.

**The UK must put into place appropriate arrangements governing the terms of transfer and standards of treatment prior to the transfer of detainees taking place.**

12.27. It may also be necessary for the UK to provide some measure of oversight as to the subsequent treatment of the detainees. Depending on the operational circumstances this could be achieved by a dedicated visits regime, such as a detention oversight team, or through use of appropriate third party organisations, such as the United Nations, national Red Cross/Crescent or appropriate non-governmental organisations. Guidance on the composition and role of a detention oversight team is at Annex 12B.

12.28. The purpose of such oversight is for the UK to garner information about the treatment of detainees at that facility, to inform the risk assessments for future transfers and, if necessary, to intervene with the detaining authorities to ensure the safety of the detainee. Experience has shown that a system of post-transfer monitoring is likely to increase the protection of the detainee. By speaking to individual detainees, monitoring their well-being and engaging with the authorities should the detainee raise any complaints, our Armed Forces can continuously assess detainee treatment and judge whether further transfers to those facilities are acceptable, or whether the UK should suspend transfers to any specific location.

12.29. To ensure that our Armed Forces comply with UK government policy, the UK should consider seeking written binding assurances from the receiving state that they will agree to the following conditions.

- a. Allow our Armed Forces, a detention oversight team or other appropriate third party organisation unrestricted access to each detainee on a regular basis (for example, once a month).
- b. Allow our Armed Forces, a detention oversight team or other appropriate third party organisation to visit each detainee in private.

12.30. The UK will consider immediate suspension of further transfers if access to detainees is denied, or if a detainee makes allegations of torture or serious mistreatment or unlawful rendition, which cannot reasonably and rapidly be dismissed as unfounded, or if detainees are repeatedly absent and unaccounted for during visits.

12.31. As a matter of UK policy, our Armed Forces will only need to exercise oversight until they are satisfied that no real risk of mistreatment exists. This will usually be at the point of a criminal conviction, after which oversight measures may cease.<sup>484</sup> This policy is partly predicated on the assessment that the risk of mistreatment is greater during the investigation stage than post-trial.<sup>485</sup> In addition, it may be extremely difficult for our Armed Forces to continue with the oversight arrangements throughout a prison sentence for a number of reasons. These may include: the prison sentence is being carried out at a facility with limited access; logistic or operational reasons; or our

.....  
484 See Annex 12B, which describes the guidance for the UK detention oversight team.

485 This assessment is based on experience in Afghanistan and is supported by the incidence of allegations of abuse that have been reported to our Armed Forces and staff at the British Embassy Kabul, gathered over pre- and post-trial visits.

Armed Forces may no longer be present in the country where the detainee is held. If any detainee makes an allegation of abuse, however, our Armed Forces may be required to conduct post-trial oversight.

12.32. The UK detention oversight team must report any allegations of mistreatment made by the detainee during visits or death in custody to the Force Provost Marshal. The Force Provost Marshal is to inform PJHQ and the theatre policy adviser for onward engagement with the British Embassy. An example of a record of interview to monitor post-transfer detainees can be found at Annex 12C, which also has a CPERS abuse first impressions report at Appendix 12C1. An aide memoire to assist the detention oversight team in recording allegations of abuse can be found at Annex 12D.

12.33. The MOD, through PJHQ and the Operations Directorate will decide on the duration of oversight. Our Armed Forces should complete a submission regarding cessation of visits to PJHQ as shown in Annex 12E. Oversight will not cease, however, if there is a continuing risk of abuse to the individual. Our Armed Forces should note and report any evidence of abuse to PJHQ, the MOD (who will wish to consider notifying the International Committee of the Red Cross (ICRC) and, if appropriate, the local national Red Cross or Red Crescent) and the responsible state. UK Armed Forces will need to manage allegations carefully and will need to ensure cross-government involvement. Guidance for handling procedures regarding allegations of mistreatment by another nation is at Annex 12F.

## Section 3 – Preparing to release captured persons

12.34. CPERS must be released when there is no longer a lawful reason to detain them. Necessary measures must be taken to ensure their safety upon release. They are often released into the society in which our Armed Forces are operating. CPERS may perceive their time spent in captivity as a humiliation or an injustice. The time in captivity could, however, be used constructively to reconcile, rehabilitate and retrain the CPERS to better enable them to contribute productively to their society upon release. Experience has shown that CPERS released without being able to reintegrate into society are at greater risk of (re)joining an insurgency or engaging in criminal activity that may have links to an insurgency.

12.35. Additional considerations should be applied to the possible release of a high value/profile CPERS. This can be a sensitive area where an operations security (OPSEC) release may be required. Planning for such a release should be carefully orchestrated and may include engaging at the appropriate level with key stakeholders. The authority to release a CPERS would come from the Detention Authority. Consideration should also be given to providing an appropriate information operations message to CPERS prior to their release.

12.36. Where operationally possible, and depending on the length of time the CPERS remains in UK captivity, our Armed Forces should place CPERS into programmes that suit their needs and that fit the society and employment market. This will provide for the best possible chance of reintegration. Not all CPERS, however, will be suitable for such programmes – which must be on a voluntary basis. In addition, they may be neither appropriate nor accepted by the CPERS. An accurate assessment of CPERS is an essential first step to success. Our Armed Forces should take into consideration factors such as literacy levels, education, vocational and professional skills. Academic lessons, vocational or life skills (such as first aid and managing money) can all aid job prospects for CPERS. Our Armed Forces should also engage with other government departments and non-governmental organisations to support sponsorship programmes within the community (a system of vouching for CPERS and offering mentoring and support advice to them).

## Section 4 – Releasing and repatriating prisoners of war

12.37. Prisoners of war must be released and repatriated as soon as possible after the cessation of active hostilities.<sup>486</sup> It is UK policy that prisoners of war should not be repatriated against their will.<sup>487</sup> Prisoners of war are protected against transfer, repatriation or release if they face a real risk at the time of transfer of being subjected to torture, serious mistreatment, unlawful rendition or the death penalty.<sup>488</sup>

12.38. Even after prisoners of war who were captured by our Armed Forces have been transferred to the captivity of another state, the UK retains certain responsibilities in respect of those prisoners of war. The UK must be satisfied

.....  
486 GC III, Art 118.

487 JSP 383, *The Joint Service Manual of the Law of Armed Conflict*: 8.170.

488 *MOD Strategic Detention Policy*, 2020.

that the receiving state is a party to the Geneva Conventions and able and willing to apply the provisions of the Geneva Conventions. If the receiving state fails to apply the provisions of the Geneva Conventions, the UK must either take back the prisoners of war or take effective measures to rectify the failure and ensure compliance.<sup>489</sup>

**Our Armed Forces remain responsible for prisoners of war after transfer to another state.**

12.39. Our Armed Forces can only transfer prisoners of war from UK captivity to a state that is a signatory to the Geneva Conventions. As a matter of good practice, a representative of the Force Provost Marshal staff will visit the location where the prisoners of war are to be transferred. This will ensure that the location meets the relevant UK standards for prisoners of war handling and that the receiving state intends to abide by the applicable provisions and general intent of the Geneva Conventions and other international law, and has the necessary facilities to do so.<sup>490</sup>

### Repatriating sick and wounded prisoners of war

12.40. Geneva Convention III places a duty on the UK to carry out the following.

- a. Repatriate prisoners of war who are seriously wounded or ill back to their own countries, after first having afforded them sufficient medical treatment to enable them to travel. Prisoners of war who are wounded in accidents benefit from the same provisions of Geneva Convention III, unless the injuries are self-inflicted.<sup>491</sup> No prisoner of war who is eligible for repatriation, however, may be repatriated against their wishes.<sup>492</sup>
- b. Make arrangements with neutral states for sick and wounded prisoners of war to be accommodated in those neutral states for the duration of hostilities.

.....  
489 GC III, Art 12.

490 GC III, Art 12.

491 GC III, Art 114.

492 GC III, Art 109.

12.41. Mixed medical commissions will normally carry out the assessment of prisoners of war to determine their eligibility for repatriation.<sup>493</sup> Prisoners of war who, in the opinion of a medical officer of our Armed Forces, are seriously injured or sick, however, may be repatriated without having to be examined by a mixed medical commission. Regulations for mixed medical commissions, covering their composition and method of work, and details of the medical conditions forming the criteria for the different types of repatriation are set out in Geneva Convention III.<sup>494</sup> The most important regulations relating to the mixed medical commissions are as follows.

- a. Each mixed medical commission is to consist of three members. Two of these (of whom one should be a physician and the other a surgeon) are, wherever possible, to be from a neutral country, appointed by the ICRC and approved by the belligerents. The third member is to be a medical officer of our Armed Forces who is also to be responsible for the administration of the mixed medical commission. One of the neutral members is to be the chairperson of the mixed medical commission.
- b. The mixed medical commission will:
  - o examine prisoners of war who have applied for, or been recommended, for repatriation;
  - o inspect the medical records of those prisoners of war; and
  - o determine which cases are eligible for repatriation or transfer to a neutral country.
- c. Mixed medical commission decisions are to be based on a majority vote by the members of the mixed medical commission.
- d. Each CPERS holding facility is to be visited by a mixed medical commission at an interval of not more than six months.
- e. The decisions of the mixed medical commission on each specific case are to be passed to the prisoners of war, the UK, the protecting power (if appointed) and the ICRC within a month of their visit. The UK is required to implement the decision of the mixed medical commission within three months of the date of receiving its decision.

.....  
 493 GC III, Art 112 and Chapter 3.

494 GC III, Annexes I and II.

- f. A medical officer of the same nationality as the prisoners of war employed as retained personnel and the prisoners of war representative are both entitled to be present at the examination of prisoners of war by the mixed medical commission.<sup>495</sup>

12.42. The following guidance is used to determine eligibility for repatriation.<sup>496</sup>

- a. The following categories of prisoners of war are to be repatriated to their own country:
  - o incurably wounded and sick prisoners of war whose mental or physical fitness appears to have been gravely diminished;
  - o wounded and sick prisoners of war who, according to medical opinion, are not likely to recover within one year or whose condition requires treatment and whose mental or physical fitness appears to have been gravely diminished; or
  - o wounded and sick prisoners of war who have recovered from their wounds or illnesses but whose mental and physical fitness appears to have been gravely and permanently diminished.
- b. The following categories of prisoners of war may be transferred to, and accommodated in, a neutral country:
  - o wounded and sick prisoners of war whose recovery may be expected within one year of the date of a wound being inflicted or the beginning of an illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery; or
  - o prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose transfer and accommodation might remove such a threat.

.....  
495 GC III, Art 113.

496 GC III, Art 110.

c. The belligerents, through the offices of the neutral country, the protecting power or the ICRC, will agree the exact criteria for further repatriation of prisoners of war. In general, however, prisoners of war whose state of health has deteriorated so as to fulfil the conditions laid down for direct repatriation or whose mental or physical powers remain, even after treatment, considerably impaired, should be repatriated.

12.43. The costs involved in repatriating sick or wounded prisoners of war, or of transporting them to the territory of a neutral power, will be met as follows.<sup>497</sup>

a. The UK will meet the costs of transfer from the UK facility to the national border, including seaports and airports, of the country of destination.

b. The nation on which the prisoner of war depends will meet the costs of transfer from the national border of the country to either the neutral country or the prisoner of war's own country.<sup>498</sup>

12.44. No repatriated person may be further employed on active military service.<sup>499</sup> This does not preclude a repatriated person from engaging in medical or purely administrative duties in the service of their armed forces.

## Prisoners of war exchange

12.45. Prisoners of war exchange is outside the provisions of Geneva Convention III. Although historically there have been exchanges of prisoners of war, person for person, in the course of truces or temporary cessations in hostilities, such instances are likely to be the exception.<sup>500</sup>

12.46. Our Armed Forces will not engage in prisoners of war exchange without the specific authority of the MOD. When authority is granted, the exchange is to take place under the supervision of the protecting power and the ICRC.

.....  
497 GC III, Art 116.

498 GC III, Art 118.

499 GC III, Art 117.

500 Exchanges of other CPERS, while theoretically possible, are highly unlikely to take place.

## Releasing and repatriating at the end of hostilities

12.47. The overriding principles governing the release and repatriation of prisoners of war at the end of hostilities are as follows.

- a. The repatriation process must take place with the minimum of delay as soon as possible after the end of active hostilities.<sup>501</sup>
- b. Repatriation should be carried out in accordance with a properly constituted repatriation plan. This is to cover such matters as the administration and documentation of the ex-prisoner of war, their feeding and accommodation and their onward movement to their home country. This will involve J1, J3, J4 and J5 at Joint Task Force Headquarters and PJHQ. Chapters 6 and 8 include logistic planning for CPERS.

12.48. Releasing and repatriating prisoners of war is to be conducted in accordance with the following guidelines.<sup>502</sup>

- a. Prisoners of war are to be notified of the arrangements for their release and repatriation as soon as they are finalised.
- b. Repatriation is to be carried out in accordance with the same principles which determine the transfer of prisoners of war (see Chapter 12, Section 1).
- c. Our Armed Forces are to return all items of value impounded on capture and any foreign currency belonging to prisoners of war or, if this is not possible, despatch such items to the Prisoners of War Information Bureau.
- d. Prisoners of war are to be allowed to take their personal belongings and any other items which may have been sent to them during their period of captivity. Depending on transport constraints, our Armed Forces may impose an upper limit on the amount of baggage a prisoner of war may take with them on repatriation, but prisoners of war may travel with 25 kilograms of personal belongings.<sup>503</sup>

.....  
501 GC III, Art 118.

502 GC III, Arts 118-119.

503 GC III, Art 119.

e. The MOD must make a ruling on the disposal of a case where either a prisoner of war faces criminal proceedings for an indictable offence, or where a prisoner of war has already been convicted for an indictable offence and is undergoing punishment at the time of the cessation of hostilities. Where the MOD rules that a prisoner of war is to complete a sentence of punishment before release and repatriation, details of the prisoners of war are to be forwarded to their national authorities through the Prisoners of War Information Bureau.

12.49. The costs of repatriating prisoners of war at the end of hostilities are to be apportioned equitably between the UK and the nations on which the prisoners of war depend.<sup>504</sup> The basis for the apportionment is that the UK will bear the costs of transporting prisoners of war between the CPERS holding facility and either the seaport or airport of embarkation of the prisoners of war, or the point on the national border of the country nearest to the territory of the nation on which the prisoners of war depend. The repatriation process is not to be delayed by negotiations to determine the apportionment of the costs.

12.50. It is UK policy that prisoners of war should not be repatriated against their will. Arrangements for prisoners of war who do not wish to return to their state of origin will depend on the circumstances at the time, but may include applications for asylum under normal procedures. Commanders should seek guidance in such cases from the MOD through PJHQ.

## Section 5 – Transferring or releasing internees in an international armed conflict

As soon as the reasons for internment have ceased, an internee **MUST** be released.

12.51. In an international armed conflict, Geneva Convention IV sets out specific rules relating to the transfer and release of internees. The parties to the conflict must, during hostilities, seek to conclude agreements for releasing, repatriating, returning to places of residence or accommodation in a neutral

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504 GC III, Art 118.

country of certain classes of internees, particularly children, pregnant women, mothers of infants and young children, the wounded and sick, and those who have been interned for a long time.

12.52. As well as the transfer principles outlined in Section 1 of this chapter, internees may not be transferred to a state which is not a party to the Geneva Conventions and may only be transferred after our Armed Forces have satisfied themselves of the willingness and ability of the receiving state to apply Geneva Convention IV. If the receiving state fails to apply the provisions of Geneva Convention IV, the UK must either take back the internees or take effective measures to rectify the failure and ensure compliance. No internee shall be transferred to a state where they may have reason to fear persecution for their political opinions or religious beliefs.<sup>505</sup> Internees are further protected against transfer, repatriation or release if they face a real risk at the time of transfer of being subjected to torture, serious mistreatment, unlawful rendition or the death penalty.

12.53. Internment must cease as soon as possible after the close of hostilities or the end of occupation. In addition, an internee must be released as soon as they no longer represent an imperative threat to security.<sup>506</sup> The parties must endeavour to ensure the return of internees to their last place of residence, or facilitate their repatriation. Our Armed Forces may detain internees against whom judicial proceedings are pending until the conclusion of the proceedings and any custodial sentence. Disciplinary penalties do not affect release.

12.54. In the absence of a special agreement, the expenses of dealing with released internees are borne as follows.

- a. The UK bears the cost of:
  - o returning CPERS to their places of residence before internment;
  - o in respect of those interned while in transit, either completion of their journey or return to their point of departure; and
  - o repatriating those previously permanently domiciled in its territory but now refused permission to continue to reside there.

.....  
505 GC IV, Art 45.

506 GC IV, Art 132(1).

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- b. The UK does not bear the cost of:
    - o moving beyond its own frontiers those who elect to return to their own states of their own volition or in obedience to orders from the state on which they depend; or
    - o repatriating those interned at their own request.

12.55. Our Armed Forces are to return all money and property taken from internees during internment on release or repatriation together with any credit balances in their accounts. They are also to provide internees with a detailed receipt in respect of any property withheld in accordance with local legislation.

12.56. Our Armed Forces are to retain one set of documentation (including, for example, the capture report, the property receipt, the record of captivity and the personal record) relating to each internee in the joint operations area for the purpose of administering the internee, and pass a further set to the Prisoners of War Information Bureau.

Notes

## Annex 12A

# Key issues to consider when negotiating a memorandum of understanding regarding transfer of captured persons

12A.1. When negotiating a memorandum of understanding (MOU) on the transfer of captured persons (CPERS) to another state, the following issues should be considered.

Factors to consider when negotiating a MOU regarding transfer of CPERS	
Signatories	Who the arrangement will be between (for example, states' governments or military commanders).
Purpose	A statement setting out the scope and purpose of the arrangement (for example, to establish the procedures for transferring CPERS from our UK Armed Forces and to set standards for treatment. Transferred CPERS shall only be held at, and questioned in, designated places of detention agreed between the UK and receiving state).
Compliance with UK strategic guidance	What minimum standards of treatment will be applicable and what will be necessary to ensure that our Armed Forces do not act in contravention of the <i>MOD Strategic Detention Policy</i> or the <i>The Principles: relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees</i> .
Compliance with the law	A statement that the receiving state will treat all transferred CPERS in accordance with national law, the Law of Armed Conflict and international human rights law.
Humane treatment	An assurance or undertaking that the receiving state will treat all transferred CPERS humanely at all times.

**Factors to consider when negotiating a MOU regarding transfer of CPERS**

Providing documentation/evidence	What documentation the UK will provide to the receiving state, including details of the circumstances of capture and the grounds on which the CPERS was held, medical documentation (allowing for medical confidentiality and with the informed consent of the CPERS) and any other information considered relevant.
Information management	The basis on which documentation provided will be held, for example, 'not be communicated to other parties by the receiving state without the prior consent of the UK'.
Documentation inspection	A provision enabling UK officials or their nominated representative to have sight of any documentation relating to CPERS, their location and treatment.
Access to, and monitoring of, CPERS	Permission for UK officials or their nominated representatives to have access to, and conduct private interviews with, transferred CPERS on request and to participate in the intelligence exploitation of transferred CPERS.
International Committee of the Red Cross access	Before attempting to impose any obligation on the International Committee of the Red Cross (ICRC) in a memorandum of understanding, the ICRC must give its consent.
Mistreatment allegations	A commitment from the receiving state to investigate such allegations by transferred CPERS if not wholly incredible and take corrective and/or criminal prosecutions as appropriate.
Notification of onward transfer	Terms of any subsequent transfer of CPERS, whether within the receiving state or to another state. If necessary, guarantees that no transfer takes place without written consent by the UK.
Notification of release or death in captivity	A mechanism to notify the UK of a CPERS' death in captivity, or of any planned release of CPERS captured by our Armed Forces who are yet to be sentenced for criminal offences.
Prohibition of the death penalty	Assurance that the receiving state will not apply the death penalty to any transferred CPERS.
Consultation	A provision for consultation in the event of either signatory wishing to change the terms of, or terminate, the memorandum of understanding.

12A.2. The Ministry of Defence must be consulted in the drafting and approval of any arrangement or agreement governing the transfer of CPERS.

## Annex 12B

# Guidance for a UK detention oversight team

## Composition of a detention oversight team

If a detention oversight team is considered necessary and practicable it should aim to comprise a minimum of two commissioned officers, one being OF4 and the other OF3.

Unless there are exceptional reasons, the team should be drawn from Service police and the single-Service legal advisers.

If the decision is taken to use a third party monitoring team in lieu of a detention oversight team, advice on its composition should be sought from Permanent Joint Headquarters (PJHQ) and the Operations Directorate.

## Frequency and cessation of visits

### Pre-trial

After transfer and pre-trial, operational and security circumstances permitting, the detention oversight team should:

- visit captured persons (CPERS) on a regular basis, regardless of whether or not they make allegations of abuse,<sup>507</sup>
- interview each CPERS in private; and
- use the suggested interview proforma at Annex 12C.

If no allegation of abuse is made, the detention oversight team can stop visits when the CPERS has been convicted or acquitted, whether or not that decision may be subject to appeal.

Unless there are specific concerns about the well-being of a CPERS, the detention oversight team is not required to conduct visits pending the appeal court decision, but they should make enquiries about the progress of the appeal to ensure that they maintain accurate records of the CPERS' eventual whereabouts.

If an allegation of abuse is made, the detention oversight team should consider increasing the frequency of visits, particularly if the CPERS remains in the facility about which they have complained. They should use the suggested first impressions report and the aide memoire at Annexes 12C1 and 12D.

<sup>507</sup> Historically, the minimum time period has been for at least once a month where CPERS have been held for lengthy periods of time.

Pre-trial (continued)
<p>Should a CPERS request that visits cease, the detention oversight team should make a recommendation through the PJHQ to the Ministry of Defence (MOD) using the suggested proforma at Annex 12E. The default position is that their request should be ideally made in writing, and witnessed and be complied with, unless some, or all, of the following factors suggest otherwise (this is not an exhaustive list):</p> <ul style="list-style-type: none"> <li>• they have previously made an allegation of abuse;</li> <li>• a <b>serious</b> allegation of abuse has been made by any other UK CPERS in respect of that facility;</li> <li>• their reasoning to explain why visits should cease gives cause to suspect that they have been coerced into making that request;</li> <li>• their demeanour gives cause to suspect that they have been coerced into making that request; and/or</li> <li>• there are no other CPERS at that facility.</li> </ul>
Post-trial
<p>If a CPERS has not raised any allegations of abuse prior to trial, the detention oversight team should conduct a single post-trial visit. Assuming that no allegations of mistreatment are made at this stage, visits can cease. The detention oversight team should make a recommendation through PJHQ to MOD using the suggested proforma at Annex 12E.</p>
<p>If the CPERS has made allegations of abuse about their pre-trial treatment, then post-trial visits should continue.</p>
<p>The MOD, on advice from our Armed Forces and British Embassy staff (where appropriate), will determine on a case-by-case basis the requirement to continue visits.</p>
<p>The MOD will consider whether it continues to be practicable, proportionate and reasonable to continue visits and the purpose to be served by such visits.</p>
<p>Should a CPERS request that post-trial visits cease, the detention oversight team should consider the pre-trial factors listed above as well as the following.</p> <ul style="list-style-type: none"> <li>• Is there any information (from the CPERS or elsewhere) that would suggest that they may be at risk of abuse?</li> <li>• Has the CPERS given permission to raise the original abuse allegation with the host state authorities?</li> <li>• Can the allegations be actively or meaningfully pursued with the host nation authorities?</li> <li>• If reported to the host nation authorities, has any investigation into the allegation concluded?</li> <li>• Is the CPERS still in the facility about which they complained?</li> <li>• Is the detention oversight team being given unfettered access to the CPERS?</li> <li>• Is the CPERS likely to be transferred back to where they were abused?</li> <li>• What purpose is served by continuing to visit the facility post trial?</li> <li>• What is the prevailing force protection risk to our Armed Forces undertaking the monitoring?</li> </ul>
<p>Based on the responses to these questions, PJHQ will make a recommendation to the Operations Directorate who, in consultation with MOD legal advisers and the Foreign, Commonwealth and Development Office, will decide whether to cease visits.</p>

## Annex 12C

# UK detention oversight team: record of interview

CPERS name	Other known names:		CPERS picture
Parent's name			
Grandparent's name			
UK CPERS number			
Place of interview			
Date of interview			Previous visit dates
Time of interview			Initial visit – Y/N
Conducted by	Number	Rank	Name

## Chronology

Date of capture	Date of transfer	Agency transferred to	Location
Subsequent transfer	Date of transfer	Agency transferred to	Location

## Issues from previous visits

Update on sentence

## Prelims

1. Confirm identity of the captured person (CPERS). (Ensure all details are cross-referenced from the respective completed MOD F2300B and a copy accompanies this report.)
2. I am interviewing you because you were captured by UK Armed Forces and have now been transferred to the XXXXX authorities.

3. I am going to ask you some questions about your welfare and the conditions in this detention facility. I cannot discuss any other details concerning your case as they are outside of my remit.
4. If you say something which I feel should be raised with the XXXXX detention authority, other XXXXX authorities or human rights organisations, I will ask for your consent first. Otherwise nothing that you say will be reported to this detention authority other XXXXX authorities or human rights organisations.
5. At the end of the interview, with your consent, your photograph will be taken for our records, to help protect you and us.

**Questions set**

Ser	Question	Response	Previous response
1	Can you confirm which block you are in?*		
2	Do you understand why you are in this facility?*		
3	Are you being treated respectfully and fairly?		
4	Have you been moved from this facility since we last visited you? If so, where and when?*		
5	Are you aware of the progress of your case?		
6	Have you received notification of any sentence?*		
7	Have you been visited by the ICRC or any other human rights organisation since our last visit? If so when and where?		
8	Are your family aware of your whereabouts and why you are here?		
9	Are you able to contact your family?		

10	Have you received visitors? If so who and when?		
11	Do you have access to medical treatment?		
12	Do you have any medical conditions or injuries?		
13	How often do you receive food?		
14	Do you receive enough food?		
15	Do you have access to sufficient drinking water?		
16	Can you exercise regularly?		
17	Do you have sufficient bedding?		
18	Do you have access to washing facilities?		
19	Are there facilities to wash your clothes?		
20	Do you have any complaints about your treatment here or in any other facility?		
21	Is there anything else you would like me to know before the interview is concluded?		

\*Discretionary question

The interview is now concluded and as previously stated, I am now required with your consent to take your photograph.

Remarks

Ser	Question	Response	Previous response
22	Did the CPERS generally appear well?		
23	Describe the CPERS' clothing		
24	Any other comments?		

Declaration by the Interviewing Officer

I confirm that on ..... at..... I interviewed UK CPERS..... The information recorded above is a true and accurate record of the interview. My additional observations, including details of any complaints made or abuse suspected are recorded below.

Signed..... Name.....  
 Rank.....

Observations/remarks/details of complaints/alleged abuse

## Appendix 12C1

# Example of an alleged captured persons abuse first impressions report

Serial	Heading	Response
1	Date allegation made	
2	Date(s) on which alleged mistreatment took place	
3	Details of individuals involved in allegation including any names, units of [insert] forces, etc., if known	
4	UK Detention Number	
5	Name of detainee: Detainee: Child of: Grandparents:	
6	Current location of detainee	
7	Outline of allegation (include times, dates, location, etc.)	
8	Alleged injuries	
9	Assessed veracity	
10	Additional factors (may include changes to complaint during visit, previous opportunity to report or complain)	

Notes

12C1

## Annex 12D

# An aide memoire to record allegations of abuse post transfer

12D.1. Once an allegation of abuse has been made by a captured person (CPERS), the following can be used by the detention oversight team to assist in establishing both the facts and veracity of any complaint. The interview will require an additional degree of sensitivity, given the possible trauma experienced.

## Details of abuse

- Date and time of each incident of abuse? Location of incident (include details of any transfer).
- Description of alleged perpetrators (number involved, known to, or recognised by, complainant, name, rank, clothing, identifying marks, nationality, ethnic background, height, weight, build, distinguishing features, accent, right or left handed).
- Were restraints or a blindfold used?
- Description of abuse (allow complainant to tell full story, then break it down for clarification/inconsistencies).
- What was asked of the complainant during the abuse (duration/frequency, weapon or object used, what injuries were sustained, were these reported or treated)? Take photographs where possible/applicable.
- Witnesses?
- Have other CPERS complained of abuse (against this person/facility)?
- Has the complainant told anyone else about this mistreatment (other CPERS, International Committee of the Red Cross (ICRC), human rights organisations, etc.)?

## Consent to disclose

- Does the complainant give consent for UK Armed Forces to notify other authorities of the allegation and, if so, which (for example, the ICRC, host nation, parent state or local human rights organisation)? The role and status of the ICRC should be explained to the complainant.<sup>508</sup>
- If so, does the complainant consent to their details (name and details of abuse) being given to any of the above?

<sup>508</sup> This is because in the specific circumstances (country concerned) the ICRC's mandate may not extend to providing its services to ordinary criminal facilities.

### Possible factors regarding the assessment of veracity

- There are many factors which could affect opinion as to whether the complainant is telling the truth, these may be best assessed over a period of time.
- The interviewer must maintain objectivity and impartiality to maintain the integrity of the oversight system.
- Obtaining intelligence details regarding CPERS is likely to affect objectivity when assessing complaints, and therefore should be avoided.
- It may be difficult to unequivocally arrive at a conclusion.
- There may only be one side of the events available and a limited amount of time to ascertain the facts (through an interpreter), the following (non-exhaustive) list of factors may be useful when assessing veracity.
  - Were there any logical inconsistencies in the story?
  - Can these be explained?
  - Have their injuries healed, how long was any pain experienced for, and is this logical/consistent? (Consider discussing with the medic.)
  - If the CPERS did not raise a complaint immediately, why not? Is this understandable/reasonable?
  - Did the complainant show signs of nervousness, non-verbal communication? (Consider placing the interpreter behind or at the side of the interviewee so eye contact can be maintained.)
  - Has the complainant changed their story (either at the same interview or since the initial complaint)? Is their story consistent with earlier accounts? Are they embellishing the account from their original story? If so, why?
  - Is the complainant fearful? (This could be due to a fear of retribution?)
  - Has the interpreter picked up any inconsistencies through translation?
  - Consider the impressions of others present during the interview.
  - The background of the complainant. If believed to be a member of an organised group or network, they may have received training or counselling regarding making allegations to frustrate UK Armed Forces' ability to conduct operations.

## Annex 12E

# Example submission to Permanent Joint Headquarters regarding cessation of visits

1. Background to allegation.
2. Has the detainee given UK Armed Forces permission to raise the original abuse allegation with the relevant authorities?
3. Can UK Armed Forces actively/meaningfully raise the issue and pursue with the [insert nation] authorities?
4. If reported to the [insert nation] authorities, has any investigation into the allegation been concluded? [Note: an incomplete or cursory investigation is not by itself a reason to continue visits post trial.]
5. Is the captured person (CPERS) still in the facility about which they complained?
6. Is the detention oversight team being given unfettered access to these individuals? <sup>509</sup>
7. If there is no risk that the CPERS will be transferred to the site of alleged abuse, what purpose is served by continuing to visit the facility post trial?
8. What is the prevailing force protection risk to detention oversight team personnel undertaking the monitoring?
9. Is there any other relevant or potentially relevant information?

509 If not, are they likely to be transferred back to where they were abused?

Notes

## Annex 12F

# Handling procedures for allegations of mistreatment by another nation

## Guidance for all allegations of mistreatment

12F.1. This guidance sets out the procedures to be followed by our UK Armed Forces in the event that a captured person (CPERS) makes an allegation of abuse to our Armed Forces against another nation's authorities. Our Armed Forces will ask the CPERS for consent to raise the complaint with:

- the organisation where the alleged mistreatment occurred;
- the International Committee of the Red Cross (ICRC), and other authorities who take an interest; and
- any relevant human rights organisations.

12F.2. Our Armed Forces will give the CPERS the following options to:

- give consent for their name and details of the allegation of mistreatment to be released;
- give consent for general details of the allegation to be released, but their name to be withheld; or
- decline consent for their name or any details of the allegation to be released.

12F.3. Our Armed Forces and the CPERS will jointly decide what details may be released; they should advise the CPERS about the ease in which they could be identified. Our Armed Forces must warn the CPERS that if they only permit a limited level of detail to be released, it may be insufficient to allow an adequate investigation and they should ask the CPERS to reconsider.

12F.4. The Ministry of Defence (MOD), in consultation with Permanent Joint Headquarters (PJHQ), should consider whether the allegations warrant temporary suspension of the transfer of CPERS to the organisation.

### Notification of allegations to the organisation

12F.5. With CPERS consent, our Armed Forces will, as soon as practically possible:

- refer details of the allegation of mistreatment to the organisation;
- ask for an internal investigation to be conducted; and
- notify the ICRC of the allegation of mistreatment.

Should a CPERS withdraw consent once our Armed Forces have passed on details of the allegation, it will be up to the CPERS to notify the investigating authorities.

12F.6. Without CPERS consent, our Armed Forces will, as soon as practically possible:

- share details (which do not identify the CPERS but provide sufficient information to enable some investigations to be undertaken) with the organisation so that they can then review practices and procedures and take any remedial, punitive or corrective action, including against the perpetrators; and
- share the same details with the ICRC so that they can link the case with any other allegations they have received.

12F.7. In the longer term, our Armed Forces will, on a confidential basis, share general information with the ICRC (for example, numbers of allegations made each year). This is to inform wider work on detention issues and to allow any emerging trends to be raised with the organisation in question.

## Investigating the allegations

12F.8. Responsibility for investigating any allegations lies with the organisation's own authorities. To facilitate any investigation, our Armed Forces will:

- nominate a liaison officer at the British Embassy and in the detention oversight team (to lead at local level);
- provide the organisation with written details of the allegation, including any additional detail given at a later date by the CPERS; and
- consider providing the organisation with a template for carrying out an investigation.

12F.9. If the allegation is deemed unfounded on the balance of probabilities or there is insufficient evidence to substantiate the allegation, then, upon notification of the outcome of the investigation by the investigating authority, our Armed Forces will:

- request a written copy of the investigation report from the organisation;
- inform the CPERS and the ICRC of the outcome; and
- submit advice to ministers on whether it is appropriate to resume CPERS transfers to the location (if transfers have been suspended).

12F.10. If the allegation is proven, our Armed Forces will, upon notification:

- request a written copy of the investigation report from the organisation;
- ask the organisation for details of remedial, punitive or corrective action taken or proposed;
- inform the CPERS and the ICRC of the outcome of the investigation; and

- submit advice to ministers on whether to resume CPERS transfers to the location (if transfers have been suspended).

12F.11. If the organisation does not propose to take remedial action, our Armed Forces will consider what further action should and could be taken in all the circumstances. This may include escalatory measures (see paragraph 12F13) and whether to suspend CPERS transfers to the location (if not already done so). If permitted, our Armed Forces will also inform the CPERS and the ICRC of the outcome of the investigation.

### Refusal by the organisation to investigate

12F.12. In the unlikely event that the organisation refuses to conduct an investigation, or that the UK Armed Forces are not satisfied with the seriousness with which the investigation has been carried out, our Armed Forces will:

- submit advice to ministers on the suspension of CPERS transfers to the location immediately (if not already done); and
- consider escalatory measures.

### Escalatory measures

12F.13. If our Armed Forces continue to have concerns about an allegation based on all the information available to them, then they should consider whether any of the following measures are appropriate:

- suspend transfers to the location (if not already suspended);
- raise the issue at working level with contacts at the organisation;
- raise the issue in writing, or in person with the head of the organisation;
- raise the issue in writing, or in person with the Attorney General or Minister of Interior;
- make a démarche to the relevant senior government official; or
- any other options relevant in the particular circumstances.

## Guidance when mistreatment is witnessed first-hand by UK personnel

12F.14. If UK personnel witness CPERS captured by other forces being mistreated, the guidelines above should be followed as far as possible. In these cases, the consent of the CPERS is not needed. Further, UK personnel should take all safe and reasonable steps to stop the mistreatment from taking place. However, they are not obliged to intervene if to do so would then result in them placing themselves in danger.

## Information sharing with international partners

12F.15. In all cases where an allegation has been made against another nation's authorities, our Armed Forces will:

- notify key international partners of the general details of the allegation;
- ask international partners whether they have received any allegations in relation to that organisation;
- check whether the allegations will impact on the international partner's policy regarding CPERS transfers to the organisation;
- notify international partners of the outcome of the organisation's investigation (with the organisation's consent); or
- notify international partners of the outcome of the organisation's investigation (without the organisation's consent) providing PJHQ decides that the severity of the allegation, or number of allegations, warrants this decision.

12F.16. When an international partner informs the UK of an allegation of mistreatment of a CPERS transferred by that nation, our Armed Forces will ensure the information is taken into consideration, if relevant, when assessing future transfers of CPERS.



# Chapter 13

Chapter 13 covers action to be taken following an adverse incident or an allegation of abuse involving CPERS. The forms referenced in this chapter are in addition to the forms that apply at the various stages of the CPERS handling process and which appear in previous chapters.

Section 1 – Injury to captured persons. . . . .	415
Section 2 – Prevention and reporting abuse of captured persons . . . . .	416
Section 3 – Captured persons refusing food or essential medicine . . . . .	418
Section 4 – Death and burial of captured persons . . . . .	419
Annex 13A – The captured persons report . . . . .	425
Annex 13B – Immediate actions to be taken when an adverse incident or an allegation of abuse occurs involving captured persons. . . . .	427
Annex 13C – The captured persons notification of casualty . . . . .	433
Annex 13D – Captured person’s death certificate . . . . .	435
Annex 13E – Checklist in the event of a captured person’s death. . . . .	437

“

All members of our Armed Forces must, to the utmost of their ability, prevent and stop abuse and mistreatment of CPERS by others, as well as incidents of self harm.

”

## Chapter 13

# Adverse incidents and allegations of abuse involving captured persons

13.1. Commanders must ensure that formal procedures are in place to deal with any adverse incident (including death or injury) involving captured persons (CPERS). Such procedures will not only ensure the protection of CPERS but additionally ensure the protection of our Armed Forces. They will also guarantee compliance with the Geneva Conventions and other legal obligations and policy. It is, therefore, essential that planning encompasses procedures, orders and plans for our Armed Forces to follow in the event of an adverse incident involving CPERS.<sup>510</sup>

13.2. Our Armed Forces must notify all interested parties such as the International Committee of the Red Cross (ICRC) and the Prisoners of War Information Bureau in the event of an adverse incident which involves a CPERS.<sup>511</sup> (This is mandatory for prisoners of war and internees.) Our Armed Forces should complete and forward the CPERS report found at Annex 13A to the Prisoners of War Information Bureau daily. A summary of immediate actions to follow whenever there is an adverse incident involving CPERS can be found at Annex 13B.

## Section 1 – Injury to captured persons

**Any CPERS who suffers an injury must be medically treated.**

13.3. Whenever a CPERS is injured as a result of an adverse incident, or where there is alleged or suspected abuse, medical staff must provide the CPERS with any appropriate medical treatment in accordance with Chapter 3. Details on the procedures to follow in the event of the death of a CPERS is

510 See Chapter 6.

511 See Chapter 4, Section 5 for details of Prisoners of War Information Bureau.

at Section 4 of this chapter. Additionally, the Service police will carry out an investigation as a matter of priority. The incident must be annotated on the F Med 1026 (see Annex 3A) as part of the CPERS medical record and on the CPERS casualty report (see Annex 3C) for informing the Prisoners of War Information Bureau.<sup>512</sup>

13.4. UK Armed Forces should also complete and forward the CPERS notification of casualties (NOTICAS) detailing the injury or death of a CPERS, found at Annex 13C, to the Prisoners of War Information Bureau who will forward the information to the ICRC and the protecting power, as necessary. Our Armed Forces should retain a copy of the form with the CPERS personal records.

## Section 2 – Prevention and reporting abuse of captured persons

13.5. All members of our Armed Forces must, to the utmost of their ability, prevent and stop abuse and mistreatment of CPERS by others, as well as incidents of self-harm. In addition, our Armed Forces are to report any allegations of abuse, mistreatment or instances of witnessed abuse or mistreatment (which may include unexplained injuries to CPERS) immediately to the chain of command and the Service police and keep a record of that allegation and to whom it was reported.

13.6. Where other UK Armed Forces are involved, the Service person witnessing the incident should intervene to prevent the commission of a criminal act. The degree of intervention will depend upon the ability of the individual and the extent of their authority, but may include explanations and arguments to dissuade the offender, threatening to report the criminal act, repeating orders and requiring the senior individual at the scene to intercede. Where an act amounts to an imminent assault or battery, the Service person witnessing the incident may use force to the extent reasonably necessary to prevent the crime.<sup>513</sup> Lethal force may only be used to protect life. If to intervene would put the life of UK personnel at risk as well as anyone else, the Service person should distance themselves from the incident and immediately report the matter to the Service police and chain of command. They must also complete a CPERS incident form.

.....  
<sup>512</sup> See Chapter 3.

<sup>513</sup> Criminal Law Act 1967, Section 3.

**UK Armed Forces must report all allegations of abuse to the chain of command and the Service police.**

13.7. Where non-UK personnel are involved in an incident which is witnessed by a member of the UK Armed Forces, that member of our Armed Forces may intervene in the defence of others under the principle of self-defence. In some circumstances, for example, where nationals of the host nation are carrying out the abuse or mistreatment, our Armed Forces may consider it appropriate to take the CPERS to a UK facility for their protection. Commanders should, however, seek legal advice prior to the CPERS being removed to a UK facility unless the risk is such that transfer must take place immediately. In such cases legal and Service police advice should be sought as soon as possible. For further guidance on situations where the host nation is responsible for abusing CPERS after the CPERS has been transferred to the host nation see Chapter 12.

13.8. All personnel who become aware of an instance of abuse or mistreatment, no matter how minor or trivial it may appear, must immediately report the matter to the Service police and the chain of command. This will ensure that the matter is investigated thoroughly. If there is any allegation of injury to a CPERS, the on-site senior medical officer is to conduct an immediate medical review of the CPERS concerned.

13.9. Allegations of abuse or mistreatment of CPERS may constitute an offence contrary to Schedule 2 of the Armed Forces Act 2006, an offence committed in prescribed circumstances or Section 51 of the International Criminal Court Act 2001. In such circumstances a commanding officer must report the matter to the Service police for investigation.<sup>514</sup> If in any doubt, commanders must consult with their legal advisers and the Service police.

13.10. Where an individual reports an alleged violation by another member of our Armed Forces, the chain of command is to ensure that every effort is made to protect the anonymity and well-being of the reporting individual. Any allegation is to be treated as confidential so far as is possible.<sup>515</sup>

514 Armed Forces Act 2006, Sections 113 and 114.

515 See Chapter 4, Section 1.

## Section 3 – Captured persons refusing food or essential medicine

13.11. CPERS may refuse food, water or essential medicine in protest. Such individuals will require specific management. Food refusal, where it threatens an individual's health or well-being, is a complex issue. Detailed ethical guidance to practitioners caring for patients on 'hunger strike' may be required.<sup>516</sup> In addition practical guidance on assessing competence and the clinical management of patients who are refusing food may be found in DH document 8621.<sup>517</sup>

13.12. The starting assumption will be that a CPERS has capacity to make a decision to refuse food, water or essential medicine (for example, insulin, asthma inhaler) unless it can be established that they lack such capacity. Where an individual is judged to have the capacity to make a decision to refuse food, water or medical care, and medical staff are clear that the individual has properly considered all the relevant circumstances, ultimately the patient's decision must be respected. Treating, including force-feeding against a competent patient's freely expressed wishes is unjustifiable. However, whilst medical staff should respect an individual's autonomy this can involve difficult assessments as a hunger striker's true wishes may not be as clear as they appear. In particular, care must be taken to ensure that the CPERS is not being coerced as a result of threats or peer pressure. Legal advice should be sought throughout the treatment of CPERS and consideration given to the position under host nation law.

13.13. The medical officer has a responsibility to carefully explain the implications of the CPERS' decision and that ultimately the result of prolonged food refusal will be their death. This explanation should include the implications of food/water refusal to the individual so they can make an informed decision about their future medical care.

13.14. Juveniles present a complex issue. The medical officer could assess Gillick Competences<sup>518</sup> to decide if a juvenile is mature enough to make their own decisions. However, legal advice is to be sought in all cases of food and essential medicines refusal in juveniles and other vulnerable people.

.....  
516 *World Medical Association Declaration of Malta on Hunger Strikers*, adopted November 1991 and revised October 2006.

517 *Guidelines for the Clinical management of Peoples Refusing Food in Immigration Removal Centres and Prisons*, January 2010.

518 *Gillick v West Norfolk & Wisbech Area Health Authority*, 17 October 1985.

13.15. The medical officer shall see on a daily basis all CPERS who are engaged in actions that might affect their health; such as those refusing food and/or medication. A more detailed routine medical examination will be carried out every 72 hours as per facility standard operating procedures, but these may be required more frequently if debilitation and inter-current illness supervene, eventually becoming daily. When conducting a medical examination, consent and confidentiality are required in accordance with professional regulations.

13.16. Custodial staff must maintain a comprehensive and accurate record of all food and drink offered and refused by the CPERS on their personal custodial record. The medical officer must advise the custodial staff regarding what activities the CPERS is able to undertake whilst not eating, for example, exercise and work. Prolonged refusal of food and drink may well make the CPERS physically incapable of partaking in normal routine activity. A record of all visits – and advice given – by the medical officer must be maintained by the custodial staff on the CPERS' personal record. The medical officer must also maintain a record of all medical examinations, assessments, guidance/advice provided, and medication offered/taken in the CPERS' personal medical notes. In an urgent situation consideration should be given to involving others, such as the ICRC, appropriate non-governmental organisations, the family of the CPERS, other CPERS, policy advisers, the Ministry of Defence (MOD) or the host nation authorities.

## Section 4 – Death and burial of captured persons

13.17. The death of a CPERS is an emotive event capable of misinterpretation and exploitation for propaganda purposes by an adversary. It is therefore particularly important that commanders conduct contingency planning for the death of a CPERS. In addition, the circumstances surrounding the actual event of the death of a CPERS must be investigated by the Service police Special Investigation Branch.

13.18. Commanders should ensure that planning activities include the procedures to follow in the event of the death of a CPERS, including a medical examination by a suitable qualified doctor (consideration should be given to having a witness present who is as independent as achievable) to establish cause of death. Ideally a standard UK post-mortem will be conducted if

circumstances permit. Commanders should consider whether there are cultural sensitivities that can be accommodated.

13.19. The instructions set out in this section, and at Annex 13E, cover the death of a CPERS at any time during the period during which they are deprived of their liberty, from the point of capture to their eventual release.<sup>519</sup> Should a CPERS die of wounds sustained on the battlefield (despite medical treatment), our Armed Forces must ensure that the circumstances surrounding the death are recorded accurately. The medical arrangements for the death of a CPERS are described in Chapter 3, Section 3. The family must be informed of the CPERS death as soon as possible.

13.20. Immediately following the death of a CPERS, the commander must ensure that a report is made to J1, the legal adviser, policy adviser, Force Provost Marshal (who must inform Provost Marshal (Army) and the in-theatre ICRC detention delegate without delay), PJHQ and the Prisoners of War Information Bureau using the CPERS notification of casualty, which can be found at Annex 13C, together with the CPERS casualty report in Annex 3C.<sup>520</sup> The commander must also ensure that the report is sent as a matter of urgency stipulating where, during the process of CPERS handling, the CPERS died; for example, at the point of capture, transfer, unit holding area and so on. The report should indicate the geographical location of the death and details of the potential cause of death, such as natural causes or battle wounds, although this will be finally determined in the subsequent investigation and speculation must be avoided. Consideration must be given as to the exact timing and method of informing the host nation authorities.

13.21. Following the above reporting, and after return or burial of the body and any subsequent investigation, the administrative staff at the unit where the death occurred are to send a death certificate, as illustrated at Annex 13D, to J1 at Joint Task Force Headquarters and the Prisoners of War Information Bureau. In the event of the unnatural death of a CPERS, the staff are to send a copy of the notification of death to Joint Task Force Headquarters for onward transmission to the protecting power/ICRC. The commander should also ensure that the death of a CPERS in the UK is additionally notified to the appropriate registrar of births and deaths for the area in which death occurred.<sup>521</sup> The commander must ensure that a copy of the death certificate is transmitted to

.....  
519 See Chapter 1, Section 1 for the definition of a CPERS.

520 See Chapter 4, Section 5 for details on the Prisoners of War Information Bureau.

521 Geneva Convention IV 1949 (GC IV), Article (Art) 129; Geneva Convention III 1949 (GC III), Art 121.

the family, be it directly or via the host nation, to assist the family with accepting the fact that the CPERS is dead and to settle administrative issues. Consideration should be given to allowing the family or host nation representatives to see the body.

**A Service police investigation must be held into every death (or serious injury) of a CPERS.**

13.22. As soon as the death of a CPERS has been discovered, our Armed Forces must immediately report the incident to the Service police and follow the checklist of actions at Annex 13E. Our Armed Forces must take steps to secure the scene of the incident, prevent disposal of, or tampering with, evidence, and collate details of possible witnesses. The Service police will conduct an investigation.

13.23. In the event that an inquiry indicates that a person or persons are suspected of criminal involvement in the death, the Service police must directly send the file to the Director of Service Prosecutions in the normal way. The Geneva Conventions require the UK to take all possible measures for the prosecution of those responsible.<sup>522</sup>

13.24. Disposal of a CPERS' body will depend on the location and the nature of the operation. In general, subject to any religious or ethnic variations, once no longer required for any investigation, our Armed Forces should make arrangements to return the body of a deceased CPERS to their family members, usually via the host nation authorities, or if none can be traced, returned to host nation authorities. ICRC advice and assistance should be sought if necessary. Care of the body will include the requirement for cold storage and the potential requirement for a cold transportation chain.

13.25. If it is impossible or impractical for our Armed Forces to return the body of the deceased to the family or host nation authorities, funeral arrangements for CPERS are to be the same as those that would be made for a UK Service person dying in the joint operations area. In particular, the disposal of a CPERS' body is to be carried out in accordance with the following.

- a. Before burial or cremation takes place, there is to be a medical examination of the body to confirm death and, where necessary, to

.....  
522 GC III, Art 129; GC IV, Art 146.

identify the individual. A Special Investigation Branch Investigator should, where possible, be present during this post-mortem investigation/examination.

b. A CPERS may only be cremated for imperative reasons of hygiene, on account of the CPERS' religion or in accordance with the CPERS' written instructions, or the CPERS' family requesting a cremation on the behalf of the deceased.<sup>523</sup> The fact that cremation has taken place and the reason for it is to be stated in the death certificate.<sup>524</sup>

c. Commanders must ensure that:<sup>525</sup>

- o CPERS who have died while in captivity are honourably buried, if possible according to the rites of their religion;
- o consideration is given to allowing appropriate CPERS representation at any burial/cremation;
- o CPERS graves are respected, suitably maintained and marked so that they may be found at any time;
- o wherever possible, deceased CPERS of the same nationality are buried in a national plot in the same location;
- o unless circumstances necessitate using collective graves, deceased CPERS are to be buried in individual graves; and
- o our Armed Forces record and provide details of all burials and graves to the Prisoners of War Information Bureau – they are to ensure that the ashes of cremated CPERS are retained by the Graves Registration Service until they can be disposed of in accordance with the wishes of the deceased's family, or, failing that, host nation authorities.

.....  
523 The in-theatre ICRC detention delegate may be able to assist in liaising with the family of the deceased CPERS if required. The Force Provost Marshal can act as a conduit to the ICRC.

524 GC III, Art 120.

525 GC III, Arts 120 and 121; GC IV, Art 130.

13.26. In the case of death of a CPERS, the following information must be sent to the Prisoners of War Information Bureau.

- The date/place of capture and death.
- Particulars concerning wounds/illnesses or cause of death.
- The date and place of burial, with particulars to identify the grave.
- When applicable, half of the identity disc.<sup>526</sup>
- All personal effects.

13.27. On the death of a CPERS, the commander must ensure that any will that the CPERS has made and given to the UK authorities for safe keeping is sent to the person designated by the deceased. The administrative staff of the facility where the CPERS died are to forward the will, together with a certified copy, to J1 at Joint Task Force Headquarters, for onward transmission to the Prisoners of War Information Bureau. The original will must then be passed to the protecting power/ICRC and a certified copy sent to the Prisoners of War Information Bureau. If the deceased was a host nation national, the administrative staff must make arrangements to forward the original via host nation authorities. Otherwise, transmission should take place through diplomatic channels.<sup>527</sup> ICRC assistance may be sought.

13.28. **Death at sea.** In general, many of the same instructions applying to the disposal of the body of a CPERS who died on land will apply where CPERS die at sea. In particular, if burial at sea has to take place, the same procedure prescribed for the burial of a member of our Armed Forces at sea is to be followed. A CPERS notification of casualty form must be submitted by the Ship's Captain to the UK Prisoners of War Information Bureau so that the ICRC can be informed of the death.

.....  
526 The other half must remain with the body.

527 GC III, Art 120; GC IV, Art 129.

Notes

## Annex 13A

# The captured persons report

## This form is mandatory for prisoners of war

13A.1. To fulfil the requirements placed upon it by Geneva Convention III, the Prisoners of War Information Bureau requires a daily update on the total numbers of captured persons (CPERS) held by the UK in CPERS holding facilities. This requirement is met through using the CPERS report.

13A.2. **Format.** The CPERS report is a simple form, the layout of which is set out below.

13A.3. **Submitting the CPERS report.** A CPERS report for each nationality of CPERS is to be completed daily by all CPERS holding facilities. J1 staff at Joint Task Force Headquarters are to consolidate the figures into a theatre CPERS report which is to be sent to the Prisoners of War Information Bureau.

CPERS report for..... (UNIT) as at.....(DTG)									
Ser	Detail	Prisoner of war				Internee		Detainee	
		Male	Female	Civilian	Military	Male	Female	Male	Female
1	Totals since last report								
2	CPERS added since last report								
3	CPERS transferred since last report								
4	CPERS escaped since last report								
5	CPERS died since last report								
6	CPERS on strength at DTG of this report								
7	CPERS released								

13A

## Notes

1. Details of transfers are to be enclosed with the CPERS report. The internment serial numbers of CPERS who have been transferred, escaped or who have died are to be provided to the prisoners of war representative, protecting power and the International Committee of the Red Cross.
2. The internment serial numbers of CPERS who have been transferred, escaped or who have died are to be enclosed with the CPERS report.
3. All CPERS on the strength of the reporting unit, including those in military or civil hospital are to be included.

## Annex 13B

# Immediate actions to be taken when an adverse incident or an allegation of abuse occurs involving captured persons

13B.1. Both the safety of our UK Armed Forces personnel and that of the captured persons (CPERS) is important in the event of an adverse incident. The actions highlighted below are not exhaustive and, when contingency planning, commanders must take into account the standard operating procedures of individual locations and must ensure that Service police investigate any death or serious injury of a CPERS while in the CPERS facility.

## The incident – first on the scene

13B.2. The priority is to save life while not allowing others to become casualties. Our Armed Forces must remember that an incident amongst CPERS in a compound may be a ‘come on’ tactic or a diversion to allow other activity by CPERS in another compound. The incident scene must be preserved as far as practicable to defend the lawful actions of those handling CPERS. Commanders may wish to seek further guidance from the Military Provost Staff. Commanders should ensure, however, that our Armed Forces follow the guidelines below.

- a. Initial steps.
  - (1) If possible, use one path to the scene and do not move or touch anything.
  - (2) Check for vital signs and render first aid where appropriate.
  - (3) Call for immediate medical support.

- (4) Consider the need for the CPERS to be accompanied by a member of the Service police or Military Provost Staff.
  - (5) Consider the need for an ambulance.
  - (6) If considered appropriate, call an ambulance and allow the CPERS to be taken to hospital, if required, accompanied by a member of the Service police or Military Provost Staff, if available.
  - (7) Do not delay the CPERS' departure to hospital if it is not immediately possible to find a suitable person to accompany them to hospital.
  - (8) Assess and take control/action to prevent the incident escalating.
- b. Immediate next steps.
- (1) Inform the commanding officer or commandant of the facility.
  - (2) Warn all staff and guards.
  - (3) Consider taking action in conjunction with the Service police, if available. These actions will be based on the seriousness of the actual harm and the intended or likely consequences of their actions.
  - (4) Identify all potential scenes and secure as appropriate to preserve evidence. No one is to be given access until the Special Investigation Branch have taken over the scene.
  - (5) Photograph the scene if possible without disturbing the scene in any way. If the scene is exposed to the elements and likely to degrade due to wind or rain then photographing the scene at the earliest opportunity will greatly assist in any subsequent police investigation.
  - (6) Ensure that the incident and any subsequent actions are noted on the captivity record. This should include providing the time of those actions and the time the record is made.

(7) Ensure an incident log/serial/report is created and start a scene log.

c. Next steps.

(1) Inform the Special Investigation Branch as soon as reasonably practicable, who must in turn inform Provost Marshal (Army).

(2) Service police are to compile paperwork in accordance with regulations.

13B.3. For actions in relation to specific incidents.

a. Actions on fire.

(1) Any person discovering a fire is to raise the alarm by shouting 'FIRE, FIRE, FIRE' or sounding the alarm system if there is one.

(2) Personnel are to be mustered without delay to fight the fire.

(3) Should it be necessary to evacuate the CPERS, once removed from immediate danger they are all to be accounted for (roll call) and then safely and securely relocated to a pre-planned site on the base location. On arrival at the evacuation location all CPERS are once more to be accounted for (roll call) and all thoroughly searched. Food and drink should be provided as required.

(4) After being given the all clear, the CPERS are to be returned to the CPERS facility and searched prior to being secured.

(5) Reporting and follow-up procedures for actions on fire must be captured in theatre standard operating instructions.

b. Actions on escape.

(1) All CPERS facility staff are to be familiar with the surrounding area of the CPERS facility and the actions to be carried out in the event of an escape. In the event of a CPERS escaping from the CPERS facility, the following actions should be carried out.

(a) The operations officer is to be notified immediately and, if tactically possible, the area and facility staff are to secure and account for all weapons until the CPERS is located.

(b) All routine activity should be suspended, and available troops detailed to search for the missing CPERS.

(c) All staff are to be reminded that firearms may only be used in self-defence or in accordance with the applicable rules of engagement.<sup>528</sup>

(d) Regardless of whether the missing CPERS is captured, facility staff must submit a report to the Force Provost Marshal. The officer commanding/warrant officer Military Provost Staff in conjunction with the Brigade Provost Officer are to conduct a thorough investigation into the circumstances of the escape. They must also submit a lessons-learned account to Provost Marshal (Army) via the Force Provost Marshal.

(e) Reporting and follow-up procedures for actions on CPERS escape must be captured in theatre standard operating instructions.

c. Actions on indirect fire attack.

(1) On first arrival at the facility all visitors, staff and CPERS should have been briefed on necessary actions. In the event of a rocket or mortar attack, our Armed Forces are to brief CPERS and any visitors to the facility to put on helmets and combat body armour (assisted if necessary) and instruct them to take cover and lie on the floor until the 'ALL CLEAR' has sounded.

(2) Reporting and follow-up procedures for actions on indirect fire attack must be captured in theatre standard operating instructions.

.....  
528 See Joint Service Publication (JSP) 383, *Manual of the Law of Armed Conflict*, paragraph 8.25n for guidance on the use of force to prevent prisoners of war from escaping.

d. Actions on suspicion of abuse.

(1) If a Service person suspects that a CPERS has suffered some form of abuse or has been mistreated in any way, they are to report it to the Service police and the chain of command immediately. The chain of command will confirm that the Service police have been notified and will also inform the on-site senior medical officer who is to conduct an immediate medical review of the CPERS concerned. The information in the report must include:

- what has been seen or heard;
- who was involved;
- the place, date and time of the incident; and
- what the person who made the discovery did about it (initially a verbal brief will suffice, however, a written statement will subsequently be required without delay).

(2) Reporting and follow-up procedures for all allegations of abuse must be captured in theatre standard operating instructions.

(3) If a CPERS complains that they have been abused or mistreated in any way, details of the alleged abuse or mistreatment should be recorded.

Notes

## Annex 13C

# The captured persons notification of casualty

## This form is mandatory for prisoners of war

13C.1. The captured persons (CPERS) notification of casualty (NOTICAS) informs the Prisoners of War Information Bureau and the chain of command of the circumstances surrounding the death or serious injury of a CPERS while held by our UK Armed Forces. The CPERS NOTICAS enables the Prisoners of War Information Bureau to meet its obligation under the Geneva Convention III<sup>529</sup> of keeping the International Committee of the Red Cross (ICRC) and the protecting power informed of any significant occurrence involving a CPERS held in UK custody.

13C.2. **Submitting the CPERS notification of casualty.** The CPERS NOTICAS is to be initiated by the CPERS holding facility in which the CPERS is held at the time of the occurrence. The NOTICAS is to be transmitted in signal format by the fastest possible means using an immediate precedence.

13C.3. **Format.** The format of the CPERS NOTICAS is shown below.

Detail	Explanation	Note
Precedence – action	Always IMMEDIATE	
Precedence – information	Always IMMEDIATE	
Date-time group		
From	Title of holding unit	
To	MOD UK	1
Information	MOD UK (Army) Permanent Joint Headquarters Joint Task Force Headquarters	1
Classification	OFFICIAL-SENSITIVE	
SIC	ABA/W5C/BAA	1, 2
Prisoner of war NOTICAS	Title of signal	

529 Geneva Convention III 1949 (GC III), Article 122.

Detail	Explanation	Note
One	Brief statement of occurrence to include: CPERS' internment serial number CPERS' rank CPERS' initials CPERS' name Occurrence Date-time group of occurrence	
Two	Brief statement of circumstances surrounding the occurrence	
Three	Type of occurrence	3
Four	CPERS' next of kin	
Five	When investigation into occurrence will be held	4

### Notes

1. The signal indicator code will ensure that the message reaches the appropriate branches of the addressee headquarters.
2. Specific guidance is contained in casualty procedures (95) (Army Code 12974).
3. A brief categorisation of the cause of the occurrence.
4. If an inquiry has already been held, the date of the inquiry and its outcome should be inserted here.

## Annex 13D

# Captured person's death certificate

Notification of death		
Ministry of Defence of the United Kingdom		
Power on which the captured person depended		
Surname and first names		
First name of father		
Place and date of birth		
Place and date of death		
Rank and service number (as given on identity disc)		
Address of next of kin		
Where and when taken prisoner		
Place of burial and storage of the ashes		
Is the grave marked and can it be found later by the relatives?		
Are the personal effects in the keeping of the detaining power or are they being forwarded together with this notification?		
If forwarded, through which agency?		
Short account of the circumstances and cause of the death and burial/cremation <sup>530</sup>		
Date, seal and signature of responsible authority		
	Signature of Witness 1	Signature of Witness 2
	Address of Witness 1	Address of Witness 2

<sup>530</sup> The person who cared for the deceased during sickness or during their last moments (doctor, nurse, minister of religion, fellow prisoner) should write their account here or on an attached sheet.

## Notes

1. The form should be available in both English and the CPERS' own language. The form should be produced in A4 format.
2. It is accepted that not all the information may be available.

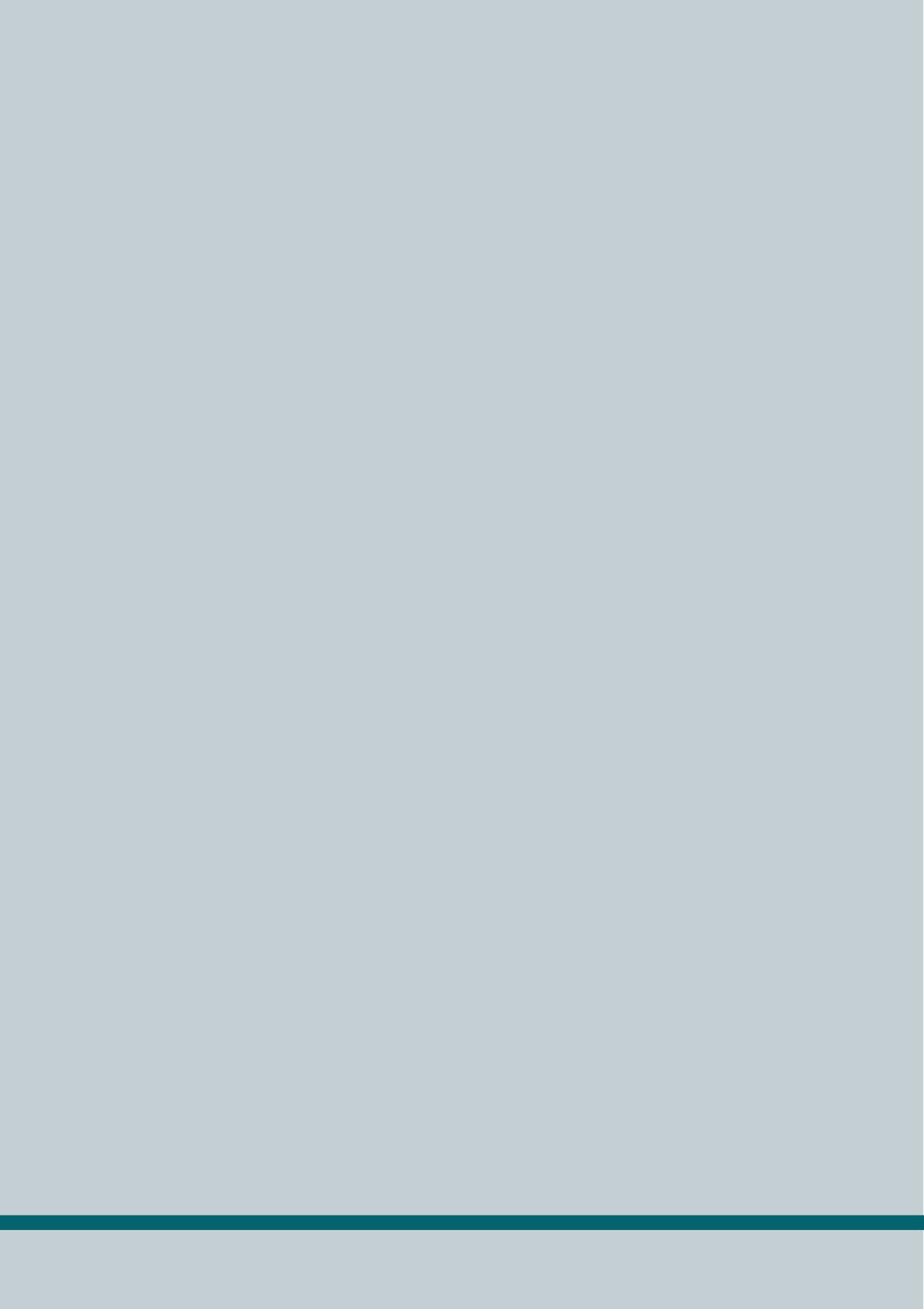
## Annex 13E

# Checklist in the event of a captured person's death

Serial	Actions	Check
1	If a captured person (CPERS) is believed to be dead, immediate medical assistance must be sought. Preserving life is paramount.	
2	Concurrently, the detention officer must be notified.	
3	Concurrently, the Service police must be notified.	
4	Prompt checks must be made, and maintained, on the welfare of the other CPERS.	
5	An incident commander should be identified and made responsible for all subsequent action until the arrival of the Service police.	
6	The scene should be preserved and sealed, if practicable, pending arrival of the Service police.	
7	A contemporaneous record of events must be maintained. The record should detail those involved in preserving and sealing the scene and any other persons identified in the area.	
8	Access to the scene should be strictly limited to Service police and medical staff.	
9	Only qualified medical practitioners can certify death, which must be in accordance with UK standard practice.	
10	If an immediate suspect has been identified and there are no Service police available at the location, then another Service person may effect a citizens arrest. An initial search may then be carried out of the suspect, and relevant evidence seized.	
11	All potential witnesses should be identified and their details recorded for subsequent interview by the Service police.	
12	Other CPERS should be moved from the immediate area and, where possible, separated pending interview by the Service police. CPERS should be held as far away from the immediate scene as practicable. The same is applicable to staff, as staff could be involved in the death and should therefore be separated pending interview by the Service police.	

Serial	Actions	Check
13	Immediate advice should be sought from the Special Investigation Branch in theatre, who will advise on all aspects of scene and evidence preservation.	
14	Special Investigation Branch commanders will make an assessment in respect of the expected arrival time of Service police and may request assistance in recording video or photographic imagery of the scene or other evidence gathering, if there is an imperative to do so, to preserve evidence.	
15	Secure all relevant documentation and electronic media relating to all CPERS in the vicinity, including the deceased, as advised by the Service police.	

Notes



# Annex A

Annex A contains MOD Forms 2300A, 2300B and 2300C which provides a consolidated set of forms to be used when dealing with CPERS. Consolidating these forms follows on from a direct recommendation from the Baha Mousa Public Inquiry.

Section 1 – MOD Form 2300A – Capture card. . . . .	443
Section 2 – MOD Form 2300B – Captured persons record . .	444
Section 3 – MOD Form 2300C – CPERS unit holding area certificate . . . . .	476



# Section 1 – MOD Form 2300A

OFFICIAL SENSITIVE PERSONAL (when completed)	
<b>UK - CAPTURE CARD (Part 1-3)</b>	
<b>PART 1 – DETAILS OF CAPTURE</b>	
DTG of Capture	
Location of Capture (Grid)	
Capturing Unit	
<b>PART 2 – SEARCH</b>	
Searcher (ZAP No)	
Observer: (ZAP No)	
Search Results / Notifiable Occurrences	
<b>PART 3 – DETAILS OF CPERS</b>	
Number / Rank (If applicable)	
Name	
Place of Origin or Unit (PW only)	
Gender	
Date of Birth (Approx age)	
Category (HVT / Adult / Juvenile / Child / Vulnerable)	
Religion	
<b>CPERS Serial Number</b> .....	
OFFICIAL SENSITIVE PERSONAL (when completed)	
MOD Form 2300A (08/2017)	
-----	
<b>Property Label</b> (Tear/cut off and attach to property/place inside property bag)	
<b>CPERS Serial Number</b> .....	

OFFICIAL SENSITIVE PERSONAL (when completed)	
<b>UK - CAPTURE CARD (Part 4-6)</b>	
<b>PART 4 – REASON FOR CAPTURE</b>	
Provide brief narrative of reason for capture	
.....	
.....	
.....	
.....	
.....	
<b>PART 5 – INITIAL MEDICAL ASSESSMENT</b>	
DTG of Medical Assessment	
Location of Assessment	
Conducted by (ZAP No)	
Unit/Appointment	
<b>PART 6 – EVACUATION</b>	
DTG Evacuated	
Destination	
Escort (ZAP No)	
Unit	
OFFICIAL SENSITIVE PERSONAL (when completed)	
MOD Form 2300A (08/2017)	

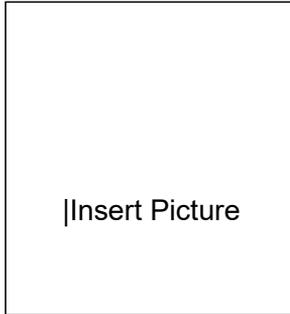


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## Section 2 – MOD Form 2300B

OFFICIAL SENSITIVE PERSONAL (when completed)

**MOD Form 2300B**  
Revised (8/17)



### **CAPTURED PERSONS (CPERS) RECORD**



*(Insert CPERS Serial Number above)*

Operation	
Capturing Unit	
DTG of Capture	
DTG Record closed	

OFFICIAL SENSITIVE PERSONAL (when completed)

**CAPTURED PERSONS (CPERS) RECORD**

SUBJECT	PAGE/S	(Attach Capture Card)
Capture Report	3 – 4	<p data-bbox="897 420 1134 491"><i>Record reasons below if Capture Card was not completed</i></p> <p data-bbox="861 1144 1157 1167">Number: _____</p> <p data-bbox="861 1210 1157 1233">Rank: _____</p> <p data-bbox="861 1277 1157 1300">Name: _____</p> <p data-bbox="861 1344 1157 1367">Unit: _____</p>
Unit Holding Area Record	5 - 6	
Property, Intelligence and Evidence Record	7 - 10	
Record of continuity of property handling	11 - 13	
Record of Activity	14 - 18	
Record of Searches	19	
Record of Tactical Questioning	20	
Record of Medical Treatment and Examinations	21	
Assurance and Oversight Visits	22	
Unit Detention Officer Checks	23	
First Impressions Reports / Complaints	24 - 27	
Detention Reviews	28	
Record of Transfer	29	
Record of Release	30	
Property Receipt	31-35	

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

**CAPTURE REPORT***(Initiated by Unit Holding Area Staff)*

CPERS Details		
Name / (Rank):	CPERS Status: PW / Internee / Detainee * <i>*(Delete those not applicable)</i>	
DTG of Capture:	Place of Capture: <i>(Named location, Grid)</i>	
Address /Unit:	Reason for Capture:	
DOB:	Complexion:	
Place of Birth:	Hair Colour:	
Distinguishing Marks:	Eye Colour:	
	Height:	
Category: Adult / Juvenile / Child / Vulnerable* <i>(Delete those not applicable)</i>	Gender:	
Nationality/language spoken:	ID Held: Driver licence/ID Card etc	
Details of Capturing Service Persons		
Number:	Rank:	Name:

**POINT OF CAPTURE AND EVACUATION TO OTHER LOCATION**

1. Was the CPERS searched (POC and prior to evacuation)?

Yes  No *If Yes, extract information from escorting soldier or capture card and record in Record of Searches (Page 19)*

2. Was the CPERS medically examined at Point of Capture?

Yes  No *If Yes, record information on 'Record of Medical Treatment and Examinations' (Page 21)*

2a. If the answer to question 2 is negative is the CPERS injured or otherwise in need of medical attention?

Yes  No 

3. Has the CPERS participated in Tactical Questioning?

Yes  No *If Yes, record event in 'Record of Tactical Questioning' (Page 20)*

4. Since capture, has the CPERS received food and water?

Yes  No *If Yes, record event in 'Record of Activity' (Page 14)*

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

5. Has the CPERS been restrained from POC and during evacuation? Yes  No   
*If Yes, record event in Record of Activity' (Page 14)*

6. Has the CPERS been subjected to sight deprivation? Yes  No   
*If Yes, record event in Record of Activity' (Page 14)*

Observations / Comments relating to capture:

**Details of Unit Detention Officer or UHA Officer initiating Capture Record:**

Number:		Rank:		Name:		Unit:	
---------	--	-------	--	-------	--	-------	--



OFFICIAL SENSITIVE PERSONAL (when completed)

**UHA HOLDING AREA (UHA) RECORD**

Location of Unit Holding Area: <i>(Named location, Grid, Ship)</i>	
DTG of capture:	DTG of arrival at location:

1. Has the CPERS been medically examined since captured? Yes  No

2. ACTION—CPERS to be medically examined by the MO? Yes  No

*If Yes, record information on 'Record of Medical Treatment and Examinations' (Page 21)*

3. ACTION - Confirm if the CPERS has received any food or water since capture and or whilst moving through the evacuation chain. Yes  No

*If Yes, record event in Record of Activity'. If No, provide the CPERS with food and record in the record of activity (Page 14)*

4. Has the CPERS participated in Tactical Questioning? Yes  No

*If Yes, record event in 'Record of Tactical Questioning' (Page 20)*

5. Has the CPERS been restrained since capture? Yes  No

*If Yes, record event in Record of Activity' (Page 14)*

6. Has the CPERS been subjected to sight deprivation? Yes  No

*If Yes, record event in Record of Activity' (Page 14)*

7. ACTION - Confirm with the escorts that all personal property, criminal evidence, statements or intelligence report has accompanied the CPERS during their evacuation. The absence of any items must be explained and recorded in the property record.

**HAND OVER AND TAKEOVER**

Escorting staff handing over CPERS			
Name:		Number:	
Rank:		Unit:	
Unit Holding Area staff accepting CPERS			
Name:		Number:	
Rank:		Unit:	

**ACTION - Commence CPERS in Processing**

OFFICIAL SENSITIVE PERSONAL (when completed)

5

OFFICIAL SENSITIVE PERSONAL (when completed)

**CPERS IN PROCESSING**

1. "Do you understand why you have been captured"? Yes  No

*If the answer is 'NO', then it must be explained to the CPERS, via the interpreter, the reasons for their detention.*

2. "Have the reasons for your capture been explained to you"? Yes  No

**CPERS must receive an admission brief as stated in the Unit Detention Standing Orders**

3. "Do you wish to make a complaint regarding your treatment since capture"? Yes  No

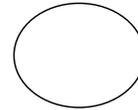
*If Yes, initiate the complaint procedure (Page 24)*

**CPERS Declaration:**

I confirm that I have received the admission brief and understood the information as explained to me:

Signed (CPERS): \_\_\_\_\_ CPERS Serial Number: \_\_\_\_\_

Name of CPERS: \_\_\_\_\_



Thumbprint of CPERS

**Interpreter Declaration:**

I confirm that I have translated the details seen visually and heard audibly as accurately as possible, and the CPERS has confirmed that they have understood what they have been told:

Signed (interpreter): \_\_\_\_\_ DTG: \_\_\_\_\_

Name of Interpreter: \_\_\_\_\_

**Declaration of person giving brief:**

I confirm that I have delivered the admission brief and that all subsequent actions relating to the capture of the CPERS have been conducted.

Signature: \_\_\_\_\_ DTG: \_\_\_\_\_

Name, Rank, Number: \_\_\_\_\_ Unit Appointment: \_\_\_\_\_

**Witness (UHA staff) Declaration:**

I confirm that I have witnessed this brief being given to the above signed CPERS.

Signature: \_\_\_\_\_ DTG: \_\_\_\_\_

Name, Rank, Number: \_\_\_\_\_ Unit Appointment: \_\_\_\_\_

**ACTION – Conduct Property, Intelligence and Evidence Check**  
OFFICIAL SENSITIVE PERSONAL (when completed)









OFFICIAL SENSITIVE PERSONAL (when completed)

**RECORD OF CONTINUITY OF PROPERTY HANDLING****Continuity Event –** Handing over from Point of Capture to Holding Facility

Person/Authority Receiving CPERS		Person/Authority Handing Over CPERS	
Unit:		Unit:	
Name, Rank/Rate:		Rank/Rate and Name:	
Service No:		Service No:	
DTG:		DTG:	
Location:		Location:	
Signature:		Signature:	

Observations / Remarks *(Explain damaged or missing property, discrepancies or state 'All property accounted for')*:**Continuity Event –** \_\_\_\_\_

Person/Authority Receiving CPERS		Person/Authority Handing Over CPERS	
Unit:		Unit:	
Name, Rank/Rate:		Rank/Rate and Name:	
Service No:		Service No:	
DTG:		DTG:	
Location:		Location:	
Signature:		Signature:	

Observations / Remarks *(Explain damaged or missing property, discrepancies or state 'All property accounted for')*:

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

## RECORD OF CONTINUITY OF PROPERTY HANDLING

Continuity Event – \_\_\_\_\_

Person/Authority Receiving CPERS		Person/Authority Handing Over CPERS	
Unit:		Unit:	
Name, Rank/Rate:		Rank/Rate and Name:	
Service No:		Service No:	
DTG:		DTG:	
Location:		Location:	
Signature:		Signature:	

**Observations / Remarks** *(Explain damaged or missing property, discrepancies or state 'All property accounted for'):*

Continuity Event – \_\_\_\_\_

Person/Authority Receiving CPERS		Person/Authority Handing Over CPERS	
Unit:		Unit:	
Name, Rank/Rate:		Rank/Rate and Name:	
Service No:		Service No:	
DTG:		DTG:	
Location:		Location:	
Signature:		Signature:	

**Observations / Remarks** *(Explain damaged or missing property, discrepancies or state 'All property accounted for'):*



OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

**RECORD OF CONTINUITY OF PROPERTY HANDLING**

Continuity Event – \_\_\_\_\_

Person/Authority Receiving CPERS		Person/Authority Handing Over CPERS	
Unit:		Unit:	
Name, Rank/Rate		Rank/Rate and Name:	
Service No:		Service No:	
DTG:		DTG:	
Location:		Location:	
Signature:		Signature:	

Observations / Remarks *(Explain damaged or missing property, discrepancies or state 'All property accounted for'):*

Continuity Event – \_\_\_\_\_

Person/Authority Receiving CPERS		Person/Authority Handing Over CPERS	
Unit:		Unit:	
Name, Rank/Rate		Rank/Rate and Name:	
Service No:		Service No:	
DTG:		DTG:	
Location:		Location:	
Signature:		Signature:	

Observations / Remarks *(Explain damaged or missing property, discrepancies or state 'All property accounted for'):*

OFFICIAL SENSITIVE PERSONAL (when completed)













OFFICIAL SENSITIVE PERSONAL (when completed)

### TACTICAL QUESTIONING RECORD

Location of Questioning (Grid)	DTG Commencing	DTG Completed	DHU / Zap Number of Questioners	TQ Report Number	Remarks

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

### MEDICAL EXAMINATION & TREATMENT RECORD

Location of Examination (Grid)	DTG of Examination / Treatment	Conducted by			Appt	Instructions / Remarks <sup>2</sup>
		Number	Rank	Name		

<sup>2</sup> While medical documents must be held separately from other official CPERS records, the latter can annotate that a medical examination has taken place and may include any specific instructions issued by medical staff that are necessary to safeguard the CPERS or facilitate their ongoing care.

OFFICIAL SENSITIVE PERSONAL (when completed)





OFFICIAL SENSITIVE PERSONAL (when completed)

**COMPLAINTS, INCIDENTS AND FIRST IMPRESSIONS REPORT**

Ser	Subject	Detail	
01	Type of incident or allegation		
02	DTG of incident or alleged incident		
03	Location of incident or alleged incident		
04	Alleged Perpetrator		
<b>Details of Complainant</b>			
05	CPERS SN		
06	<b>Name</b>		
07	<b>DTG of capture</b>		
08	<b>Current location</b>		
09	<b>Consent</b> <small>(If the incident was witnessed no consent is required)</small>	Full Partial Withheld Not Gained	
<b>Details of Complainant</b>			
10	UK Forces involved	Service	
11		Unit	
12	Non-UK Forces involved	Nationality	
13		Service	
		Unit	
14	Description of incident or alleged incident		
15	Injuries or alleged injuries <sup>4</sup>		

<sup>4</sup> CPERS must be medically examined without delay.

OFFICIAL SENSITIVE PERSONAL (when completed)



OFFICIAL SENSITIVE PERSONAL (when completed)

**COMPLAINTS, INCIDENTS AND FIRST IMPRESSIONS REPORT**

Ser	Subject	Detail	
22	Type of incident or allegation		
23	DTG of incident or alleged incident		
24	Location of incident or alleged incident		
25	Alleged Perpetrator		
<b>Details of Complainant</b>			
26	CPERS SN		
27	<b>Name</b>		
28	<b>DTG of capture</b>		
29	<b>Current location</b>		
30	<b>Consent</b> <small>(If the incident was witnessed no consent is required)</small>	Full Partial Withheld Not Gained	
<b>Details of Complainant</b>			
31	UK Forces involved	Service	
32		Unit	
33	Non-UK Forces involved	Nationality	
34		Service	
		Unit	
35	Description of incident or alleged incident		
36	Injuries or alleged injuries <sup>5</sup>		

<sup>5</sup> CPERS must be medically examined without delay.

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

<b>37</b>	List of witnesses (including Civil Population)	
<b>Submission of Report</b>		
<b>38</b>	Originating Officer	Name: _____ Rank: _____ Number: _____ Unit: _____
<b>39</b>	DTG – Notification given to Service Police	
<b>40</b>	Detail of Service Police investigating  <i>(A copy of the report is to be given to the investigating officer/NCO. The Detention Record is <u>not</u> to be handed over and is continued to be used to record all activity).</i>	DTG of arrival: _____ Name: _____ Rank: _____ Number: _____ Unit: _____ Signature on receipt of report: _____
<b>Detention Authority to complete:</b>		
<b>41</b>	Category of Mistreatment (If applicable)	
<b>42</b>	Service Police Investigation Reference Number	

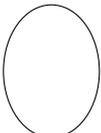
**Findings of the complaint and remedial action taken:**

Signed: \_\_\_\_\_ DTG: \_\_\_\_\_  
 Name: \_\_\_\_\_ Rank: \_\_\_\_\_  
 Unit: \_\_\_\_\_ Appt: \_\_\_\_\_

**CPERS Declaration**

I acknowledge that my complaint / allegation has been investigated and I have been informed of the future action and decision in relation to this matter.

Signed: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 DTG: \_\_\_\_\_

  
 Thumbprint of CPERS

OFFICIAL SENSITIVE PERSONAL (when completed)

### DETENTION REVIEWS

Review of Detention – (DTG)			
Decision made from Review of Detention		A. Transfer to Host Nation* B. Release.* C. Continued Detention*  DTG of future Review: _____ * Delete as applicable	
Justification:			
<b>Detention Authority</b>			
Number		Rank	
Name		Appt	

Review of Detention – (DTG)			
Decision made from Review of Detention		A. Transfer to Host Nation* B. Release.* C. Continued Detention*  DTG of future Review: _____ * Delete as applicable	
Justification:			
<b>Detention Authority</b>			
Number		Rank	
Name		Appt	



OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

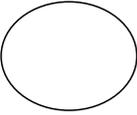
**RECORD OF TRANSFER**

Authority for transfer:			
<b>The following individual is to be handed over</b>			
Name:		CPERS SN:	
Place of Capture:		DTG of Capture:	
Address:			
Remarks:			
Summary of CPERS medical records attached: Yes/No/NA			
<b>UK Service person effecting handover</b>			
The above individual is handed over to the undersigned			
Number		Rank	
Name		Unit	
DTG of transfer		Location	
<b>Host nation representative accepting handover</b>			
I acknowledge receipt of: <ul style="list-style-type: none"> <li>• The above named individual.</li> <li>• All property as recorded in this record.</li> <li>• All evidence relating to the above named individual.</li> <li>• Case file(s) produced by the Service Police relating to the above named individual.</li> </ul>			
I do / do not* wish to make any comments pertaining to this handover.			
Comments:			
Number		Rank	
Name		Unit	
DTG of receipt		Location	

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

**RECORD OF RELEASE**

Authority for release:			
The following individual has been released from UK detention.			
Name:		CPERS SN:	
Place of Capture:		DTG of Capture:	
Remarks:			
<b>UK Service person effecting handover</b>			
The above individual has been released			
Number		Rank	
Name		Unit	
DTG of release		Location	
<p><b>CPERS Declaration:</b> I confirm that:</p> <ul style="list-style-type: none"> <li>I have been provided a copy of my medical records produced during my detention;</li> <li>I have has all personal property returned to me;</li> <li>I wish / do not wish* to make a complaint about my detention.</li> </ul> <p>Signed (CPERS): _____ CPERS SN: _____</p> <p>Name of CPERS: _____</p> <div style="text-align: right;">         Thumbprint of CPERS     </div>			
<p><b>Interpreter Declaration:</b> I confirm that I have translated all information written and spoken, as accurately as possible.</p> <p>Signed (Interpreter): _____ DTG: _____</p> <p>Name of Interpreter: _____</p>			

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

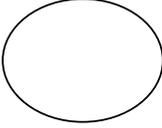
**PROPERTY RECEIPT<sup>6</sup>**

The following property is being held by UK Forces:

CPERS DETAILS				
Name/Alias				
Address/Unit				
Date and place of birth				
Height				
Complexion	Pale	Light	Tan	Dark
Hair Colour				
Eye Colour				
Gender				
Property retained				
Ser	Full description of item	DTG	Place property retained	

	Initiator	Witness (Military)	Interpreter
Name			
Rank			
Number			
Signature			

**CPERS Declaration**

I confirm that all details recording above are a true and accurate account.	
Signed: _____	
Name: _____	
Date: _____	
Thumbprint of CPERS	

<sup>6</sup> This receipt is to be produced in duplicate. The CPERS must receive a copy and one copy is to remain with the property

OFFICIAL SENSITIVE PERSONAL (when completed)

OFFICIAL SENSITIVE PERSONAL (when completed)

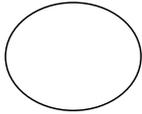
**PROPERTY RECEIPT<sup>7</sup>**

The following property is being held by UK Forces:

CPERS DETAILS				
Name/Alias				
Address/Unit				
Date and place of birth				
Height				
Complexion	Pale	Light	Tan	Dark
Hair Colour				
Eye Colour				
Gender				
Property retained				
Ser	Full description of item	DTG	Place property retained	

	Initiator	Witness (Military)	Interpreter
Name			
Rank			
Number			
Signature			

**CPERS Declaration**

I confirm that all details recording above are a true and accurate account.	
Signed: _____	
Name: _____	
Date: _____	
	Thumbprint of CPERS

<sup>7</sup> This receipt is to be produced in duplicate. The CPERS must receive a copy and one copy is to remain with the property

OFFICIAL SENSITIVE PERSONAL (when completed)

# Section 3 – MOD Form 2300C

OFFICIAL SENSITIVE PERSONAL (when completed) MOD Form 2300C (Rev.08/17)

## CPERS – UNIT HOLDING AREA CERTIFICATE

DOB Serial No	DTG Opened	DTG Closed
Unit	Location of UHA (Grid Ref)	
DTG – UHA Established	DTG – UHA Remediated	

### Unit Holding Area Checklist

Detention Officers and Unit Holding Area Officers are to ensure that the conditions below are met:

Planning factors and principles of design of a CPERS holding facility as set out in JDP 1-10 Ch 6, Sect 4 have been used.	The UHA has been designed to ensure CPERS are held safely, securely and humanely.
Basic standards and requirement will be provided for CPERS as set out in JDP 1-10 Ch 2, Sect 1.	Where practicable, efforts are being made to improve infrastructure, medical and logistical support.
Appropriate staff have been appointed in accordance with JDP 1-10 Ch 4, Sect 3.	Policies, practises and procedures are, and will continue to be, periodically reviewed.

### Detention Officer / Unit Holding Area Officer

Number	Rank	Name	DTG Handover	Signature
Number	Rank	Name	DTG Handover	Signature
Number	Rank	Name	DTG Handover	Signature

OFFICIAL SENSITIVE PERSONAL (when completed)

# Lexicon

## Acronyms and abbreviations

AGC	Adjutant General's Corps
AJP	Allied joint publication
AP	Protocols Additional to the Geneva Conventions of 1949
Art	Article
BRd	(Royal Navy's) Book of Reference (digital)
CASREP	casualty report
CCTV	closed circuit television
CPERS	captured persons
CPERSREP	captured persons report
CSN	capture serial number
DCDC	Development, Concepts and Doctrine Centre
Dstl	Defence Science and Technology Laboratory
FCDO	Foreign, Commonwealth and Development Office
FRAGO	fragmentary order
GC	Geneva Conventions of 1949
GP	general practitioner
GROUPCAPREP	group capture report
HUMINT	human intelligence
ICRC	International Committee of the Red Cross
IEF	intelligence exploitation facility
IHL	international humanitarian law
ISN	internment serial number
JDP	joint doctrine publication
JPA	Joint Personnel Administration
JSP	joint Service publication
JTFHQ	Joint Task Force Headquarters

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LOAC	Law of Armed Conflict
M3	third molar
MAPO	military aviation protection officer
MATT	Military Annual Training Test
MOD	Ministry of Defence
MOU	memorandum of understanding
MPE	materiel and personnel exploitation
MPS	Military Provost Staff
NATO	North Atlantic Treaty Organization
NIB	National Information Bureau
NOTICAS	notification of casualty
Op Law Training CEB	Operational Law Training Customer Executive Board
OPSEC	operations security
OSJA	Overseas Security and Justice Assessment
PJHQ	Permanent Joint Headquarters
PM(A)	Provost Marshal (Army)
RSOI	reception, staging, onward movement and integration
SNCO	senior non-commissioned officer
STANAG	standardization agreement
TLB	top-level budget
TUL	truck utility light
TUM	truck utility medium
UK	United Kingdom
UN	United Nations
UNSCR	United Nations Security Council resolution
VTC	video teleconferencing

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# Terms and definitions

This section is divided into three parts. First, we list definitions that have been modified and will be updated in the UK endorsed terminology publication. Secondly, we list endorsed terms and their definition. Finally we list UK unendorsed definitions from other organisations, which may be helpful to the reader.

## Modified definitions

### **captured children**

Captured persons aged 14 and under. (JDP 1-10, 4th Edition)

### **captured persons**

The generic term given to all individuals who are captured and held by UK Armed Forces on operations overseas, whether they be prisoners of war, protected persons as defined in Geneva Convention IV, or detainees or security internees, whether or not the Geneva Conventions apply. (JDP 1-10, 4th Edition)

### **captured persons facility**

Any facility where captured persons are held in captivity, including unit holding areas, collection points and captured persons holding facilities. (JDP 1-10, 4th Edition)

### **detainee**

A person who has been detained because they have committed, or is suspected of having committed, a criminal offence against the laws of the territory in which they have been captured, or against UK Armed Forces, or an offence against the law applied in an occupied territory. (JDP 1-10, 4th Edition)

### **Law of Armed Conflict**

Those treaties, conventions, rules, regulations and customary international law that govern the conduct of hostilities and the protection of persons in enemy hands during an armed conflict and/or during a military occupation.

Note: it is sometimes referred to as international humanitarian law. (JDP 1-10, 4th Edition)

**prisoner of war**

A member of the armed forces of a party to an international armed conflict who is captured by the armed forces of the enemy. (JDP 1-10, 4th Edition)

**vulnerable captured person**

An individual who by reason of mental or other disability, age, illness or other grounds, is or may be unable to take care of themselves; or is unable to protect themselves against significant harm or exploitation; or is dependent on others for assistance in the performance of basic physical functions. (JDP 1-10, 4th Edition)

## Endorsed definitions

**captured juveniles**

Captured persons aged 15, 16 or 17. (JDP 0-01.1)

**captured persons holding facility**

A facility which is of an established nature and designed to hold larger numbers of captured persons for extended periods of time.

Note: It does not include unit holding areas or collection points. (JDP 0-01.1)

**combatant**

A member of the armed forces of a party to the armed conflict (other than medical personnel and chaplains) who has the right to participate directly in hostilities.

Note: this category includes irregular forces who are under responsible command and subject to internal military discipline, carry their arms openly and otherwise distinguish themselves from the civilian population. (JDP 0-01.1)

**internee**

A civilian who is interned for imperative reasons of security. (JDP 0-01.1)

**interrogation**

The systematic longer-term questioning of a selected individual by a trained and qualified interrogator. (JDP 0-01.1)

**tactical questioning**

The obtaining of information of a tactical nature from captured persons, the value of which would deteriorate or be lost altogether if the questioning was delayed. (JDP 0-01.1)

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## Unendorsed definitions

### **commandant**

The term commandant is used in the Geneva Conventions concerning prisoners of war. UK Armed Forces are more familiar with the term Commanding Officer for the person in charge of the captured persons facility. For UK Armed Forces the terms are interchangeable. (JDP 1-10, 4th Edition)

### **interrogators**

Personnel trained in interrogation delivered by Defence Intelligence Training Group. (Defence Intelligence Training Group)

### **protecting power**

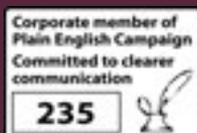
A non-belligerent state designated by a party to the conflict and accepted as such by other parties to the conflict. (Additional Protocol 1, Articles 2 and 5)

### **solitary confinement**

The confinement of prisoners for 22 hours or more a day without meaningful human contact. (*United Nations Standard Minimum Rules for the Treatment of Prisoners*)

### **tactical questioners**

Personnel trained in tactical questioning delivered by Defence Intelligence Training Group. (Defence Intelligence Training Group)



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