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27 April 2017

Dear [REDACTED],

Thank you for your email of 16 April in which you requested the following information:

"I should like to request the following document under the Freedom of Information Act, to update my research materials on the British Army's training in international humanitarian law. The document reference is AC71130, 'A Soldier's Guide to LOAC, Geneva Conventions and Additional Protocols', January 2015."

I am treating your correspondence as a request for information under the Freedom of Information Act (FOIA) 2000.

A search for the information has now been completed within the Ministry of Defence, and I can confirm that the information in scope of your request is held and is attached.

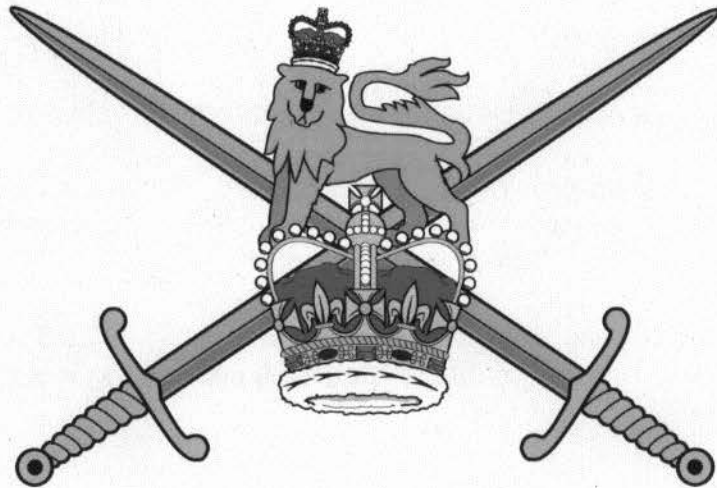
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Yours sincerely,

[REDACTED]
Disclosure and Litigation Leader

Army Code 71130



**A SOLDIER'S GUIDE
TO THE
LAW OF ARMED
CONFLICT**

Issue 5.0: February 2005

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A SOLDIER'S GUIDE TO THE LAW OF ARMED CONFLICT

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DEFINITIONS, ABBREVIATIONS AND REFERENCES

Definitions and Abbreviations

The definitions and abbreviations given below have been used extensively in this publication. Abbreviations appear in the margin beside the paragraph that refers to the particular Article of the relevant Convention.

Accession	The formal acceptance by a state of obligations under a treaty, convention or protocol of which it was not one of the original negotiating parties.
BWC	Biological Weapons Convention, 1972.
Convention	A term ordinarily reserved for a formal treaty of multi-lateral character.
CWC	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 1993.
GC I	Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 1949.
GC II	Geneva Convention for the Amelioration of the Condition of Wounded Sick and Shipwrecked Members of Armed Forces at Sea of 1949.
GC III	Geneva Convention Relative to the Treatment of Prisoners of War of 1949.
GC IV	Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949.
Hague Decl	Declaration Concerning Expanding Bullets, 1899.
HCP	Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954.
HR	The "Hague Rules" contained in Regulations annexed to Convention No IV respecting the Laws and Customs of War on Land of 1907.
ICRC	International Committee of the Red Cross.
Municipal Law	In an international law context, this refers to the internal law of states.
OC	The Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 1997.
Protocol	Another word for a treaty or convention, but usually used to describe an instrument ancillary to a convention but operating independently and subject to independent ratification.

Prot I	Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts of 1977.															
Prot II	Geneva Protocol II Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-international Armed Conflicts of 1977.															
PW	Prisoner of War.															
Ratification	The formal acceptance by a state of its obligations under a convention, treaty or protocol of which it was one of the original negotiating parties.															
St P Decl	St Petersburg Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight of 1868.															
UNWC	United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 1980. There are four Protocols to this Convention as follows:															
	<table border="0" style="margin-left: 40px;"> <tr> <td style="vertical-align: top;">Protocol I</td> <td>on Non Detectable Fragments</td> <td style="text-align: right;">- 1980</td> </tr> <tr> <td style="vertical-align: top;">Protocol II</td> <td>on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices</td> <td style="text-align: right;">- 1980</td> </tr> <tr> <td style="vertical-align: top;">Amended Protocol II</td> <td>on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices</td> <td style="text-align: right;">- 1996</td> </tr> <tr> <td style="vertical-align: top;">Protocol III</td> <td>on Prohibitions or Restrictions on the Use of Incendiary Weapons</td> <td style="text-align: right;">- 1980</td> </tr> <tr> <td style="vertical-align: top;">Protocol IV</td> <td>on Blinding Laser Weapons</td> <td style="text-align: right;">- 1995</td> </tr> </table>	Protocol I	on Non Detectable Fragments	- 1980	Protocol II	on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices	- 1980	Amended Protocol II	on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices	- 1996	Protocol III	on Prohibitions or Restrictions on the Use of Incendiary Weapons	- 1980	Protocol IV	on Blinding Laser Weapons	- 1995
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Reference

The Joint Service Manual of the Law of Armed Conflict (JSP 383) 2004 Edition provides further reference and more detailed explanation of the Law of Armed Conflict.

CHAPTER 1 - INTRODUCTION

Historical Background

1. Nations maintain armed forces to protect their interests. If there is an armed conflict, the overall object is to win it and to defeat the enemy as quickly as possible. Armed conflict is not a gentle business; it involves death, injury, destruction, loss of liberty, changes in a way of life, sorrow, personal hardship and discomfort.
2. In the conflicts at the start of civilization generally no quarter was sought or given. Rape, pillage and the slaughter of at least the adult males of the vanquished were to be expected. The conquered were put to death or made slaves. The wounded were dispatched by the victors on the battlefield where they lay. It may be argued perhaps that in those days there was no practical alternative.
3. As civilization developed the Greeks coined this type of behaviour as barbaric and conducted by barbarians who, by their definition, were not civilized. It should be noted that the development of medical knowledge and the provision of military medical services and hospitals are comparatively recent.
4. Despite many occurrences of barbarism throughout the ages, there have been notable instances of humane behaviour which are worth recording. Examples of this are:
 - a. Ordinance for the Government of the Army issued by King Richard II of England in 1386 prohibited acts of violence against women and unarmed priests, the burning of houses and the desecration of churches and other sacred objects.
 - b. Bonaparte wrote to the emperor of Austria after Marengo in 1800, "It is on the battlefield, amid the sufferings of vast numbers of wounded men, surrounded by 15,000 dead bodies, that I adjure Your Majesty to listen to the voice of humanity".
 - c. Admiral Nelson's eve of Trafalgar prayer for victory included the words: "... and may no misconduct in any way tarnish it. And may humanity after victory be the predominant feature of the British fleet".
5. Just as, in centuries past the Articles of War provided a code of discipline for a particular campaign, so also agreements between belligerents, known as cartels, were made dealing with such things as the exchange of prisoners, or perhaps their ransom, the treatment of the wounded, the sick and sometimes even the protection of the civilian population. However, these agreements generally ceased to have effect at the end of the campaign for which they were made.
6. Religion, chivalry, disciplinary orders, agreements between belligerents and a spirit of "do as you would be done by" began slowly to introduce more humane behaviour which gradually developed into usages. These usages, through custom and treaties, became legal rules.

7. In general (and until relatively recently), peaceful civilians who took no part in combat were unaffected by it. Unfortunately, the risk of appearing to take sides in a conflict deterred many from going to the aid of the wounded. It was the sight of thousands of untended wounded on the battlefield of Solferino in June 1859 that gave the idea of what was to become the Red Cross movement to a Swiss businessman called Henry Dunant from Geneva. At about that time a wave of sympathy for human suffering was growing into what we now call humanitarianism. Various people including Florence Nightingale began to care about the poor, about prisoners, slaves, lunatics and the sick in general and about the military sick and wounded in particular. During the Crimean War sixty per cent of those wounded who had not succumbed immediately died eventually of their wounds. In World War I, seven and a half per cent of such wounded succumbed compared with two and half per cent in World War II and about two per cent in more recent conflicts.
8. Henry Dunant realised that much of the suffering of battle could be avoided if armies had more medical support. He realised that local inhabitants had charitable feelings towards the sick and wounded and understood their hesitation in tending the wounded. Dunant and four others met in Geneva on 17 February 1863 and formed a Committee which described itself as a permanent international committee for the aid of military wounded. That Committee eventually became the International Committee of the Red Cross (ICRC). One of the first things which the Committee did was to convene an international conference "to remedy the inadequacies in the Army Medical Services." In October 1863 unofficial delegates, non-diplomats, doctors and civil servants from 16 countries met in Geneva. They decided to form national societies which would provide mutual assistance to the Army Medical Services.
9. The First Geneva Convention was signed in August 1864 by diplomats from 12 countries, and diplomats from 5 further countries (including Britain, Russia and America) also took part in the Conference. This Convention provided for the respect and protection of ambulances, military hospitals and wounded and sick military personnel; for local inhabitants to come to the relief of the wounded; for the wounded or sick combatants to whatever nation they may belong, to be collected and cared for; and for the sign of the Red Cross on the white back-ground (the reversed colours of the Swiss flag) as a distinctive emblem that has become internationally known.
10. Since the middle of the last century the tendency has been to have written laws in the form of treaties between States. Most customary law¹ has now been incorporated into these treaties. The first Geneva Convention of 1864 was an important international step. It paved the way for other international agreements. The most important of those in force today are the Hague Rules, the 1949 Geneva Conventions and the 1977 Additional Protocols.

Armed Conflict

11. Before the Second World War in 1939, States were either at peace or at war; international law was clearly divided into the law of peace and the law of war. This

1. Customary law comprises those usages that have grown up through custom into established legal rules - see para 6.

legal division became clouded after 1945 when the United Nations Charter was introduced because this limited the right of States to wage war.

12. Individual member States of the UN may also be called upon by the Security Council to participate in armed enforcement actions against aggressor states. Self-defence or enforcement actions, especially if they are protracted, may be indistinguishable from war but in law they are more restrained in the manner in which they may be conducted. To cover all situations the generic term 'armed conflict' is now used in place of 'war' in the various Conventions, Protocols and UN documents.

International Law

13. In broad terms, international law is the body of law that governs relations between sovereign States or nations. It is important to note that international law can also apply to individuals.
14. There is no worldwide legislative forum which passes laws. Consequently international law makes use of the customs and practices of States, which have evolved over time, as well as bilateral and multilateral treaties and conventions into which various States of the world have entered.
15. International law consists of the rules which States apply in their relations with each other. Because of difficulty of enforcement, compliance with international law is based mainly on the mutual interests of States and the political and economic sanctions that may be imposed on States that do not observe the established law. International law, as reflected in the UN Charter, forbids the use or threat of force in international relations except:
 - a. Under a United Nations mandate, or,
 - b. Individual or collective self-defence when an armed attack occurs.
16. Just as most Nations have courts to enforce their laws, the world has the International Court of Justice at The Hague. However, the International Court of Justice differs from national courts in that it does not have compulsory power over all Nations; it is essentially a voluntary court, hearing only those disputes which the States concerned choose to place before it. This may be seen as a weakness, but the effectiveness of international law does not depend, in the last resort, on a court to enforce it. International law is observed because of reciprocity and mutual self-interest, the need for which is recognised by most States, and through the pressures exerted by international public opinion.
17. In addition, it is generally accepted that under international law States have the authority to try foreigners within their jurisdiction for war crimes, wherever committed. International tribunals may also be set up to deal with war crimes such as those established by the United Nations Security Council for the former Yugoslavia and Rwanda. A new International Criminal Court came into existence on 1 July 2002. The crimes with which it will deal are genocide, specified war crimes and crimes against humanity (see further para 5 of Chapter 9).

18. In every international armed conflict, members of the armed forces including accompanying civilians, are subject not only to their own domestic law including, where appropriate, Service law, but also to international law. The law of armed conflict regulates the rights and duties of the belligerents if an armed conflict occurs whatever the cause of that conflict. Its relationship with Municipal Law in the UK is as follows:
- a. UK courts can try any UK national, resident or a person subject to Service law for any offence subject to the jurisdiction of the International Criminal Court wherever in the world those offences are committed. Also, under the Geneva Conventions Act (as amended), grave breaches of the Geneva Conventions and the Additional Protocols can also be tried by British courts, regardless of the nationality of the accused or the place of the offence. Other breaches of the law of armed conflict may amount to ordinary criminal offences under UK domestic law and courts will certainly take the law of armed conflict into account in considering the legality of actions carried out by military personnel during armed conflict.
 - b. Under the Army Act 1955, any civil offence under English law is also an offence under military law. Thus, except for certain exempted offences committed in the United Kingdom, courts martial will also have jurisdiction over breaches of the law of armed conflict.

Rules of Engagement (ROE)

19. ROE are political parameters on the use of force. They are likely to be specific to particular operations and will be governed by LOAC, domestic law, and political considerations. UK troops may find themselves operating under UK, NATO or UN ROE but whatever ROE are in use, they will have been approved by UK Government ministers who will have been careful to ensure that soldiers complying with the ROE will not be in breach of LOAC or UK law.
20. There may be valid political reasons for limiting the use of lawful force and by defining the degree and manner in which force is to be used. ROE ensure that commanders know the constraints they are acting under. Commanders may issue their own ROE to their subordinates further limiting the use of force, even to the extent of inhibiting a soldier from carrying out an action which would otherwise have been lawful. ROE are not intended to assign specific tasks or tactical instructions.
21. Further details and examples of the application of UK ROE can be found in JSP 398 (2000) United Kingdom National Rules of Engagement. ALS advice should be sought if there are doubts about the implementation of any particular ROE.

CHAPTER 2 - THE LAW OF ARMED CONFLICT

General

1. The law of armed conflict has traditionally dealt with conflicts between states and has not concerned itself to any great degree with internal armed conflicts. That situation is now changing and the law relating to internal armed conflicts is to be found in Chapter 10. Except in so far as otherwise specified, the rest of this publication is concerned with the international law of armed conflict ie that part that deals with conflicts between States.

The Application of the Law of Armed Conflict

2. Because of the consistent failure of countries to acknowledge the existence of a state of war, the term "armed conflict" has been adopted in contemporary treaties to ensure that the terms are applicable even where one party does not recognise a state of war. Thus the law of armed conflict will apply in the following circumstances:
 - a. A declared war or any other armed conflict between two or more States; or,
 - b. Occupation of the territory of one State by another; or,
 - c. Armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination.
3. Given such a situation the law that applies is as follows:
 - a. Customary law binding on all States. This applies equally to the provisions of treaties that have become recognised as customary law. The Hague Rules fall into this category.
 - b. Those other treaties that are binding on the parties to the conflict. For instance, this would include those provisions of the Protocols that are not already considered to be customary law but which bind those States that are party to them. In 1998 the UK ratified the 1977 Additional Protocols I and II. The UK as a State party is now legally bound to apply these provisions whether or not they are already customary international law subject to any clarificatory statements.

Basic Principles

4. There are several main principles and concepts which lie behind the overall purpose of the law of armed conflict but three core features are essential to the spirit of the law. These are:-
 - a. **Military Necessity.** Military necessity allows the use of necessary lawful force during an armed conflict to make the enemy submit. This does not mean that there are no limitations on methods and means of warfare. Military

necessity is not an excuse for inhumane conduct nor for any activity prohibited by the law.

- b. **Humanity.** Basic humanity prohibits the infliction of personal suffering or destruction of property which is not necessary for compelling the submission of enemy forces. For this reason, attacks directed solely against civilians are prohibited. This protection cannot prevent incidental civilian casualties although steps have to be taken to reduce these as much as possible.
 - c. **Proportionality.** The principle features of proportionality are set out in para 9d of Chapter 4 of this Guide.
5. Nothing in the law of armed conflict prohibits members of the UK armed forces from taking appropriate action in self defence. Reasonable and proportionate force may be used for protection from imminent threat.

Individual Responsibility

6. Although international law is aimed mainly at regulating the conduct of States and their governments, individual combatants are required to comply with the law of armed conflict. States and individuals benefit from compliance with the law. Not only are duties imposed by the law, but also rights are granted to individuals. Most important is the right of the combatant to employ force and to engage in violence which if done by a non-combatant would be unlawful. If the responsibilities of a combatant are not lawfully carried out, his corresponding rights may be affected. The same principle applies to belligerent States and the civilian populations who are protected and defended by their armed forces.

CHAPTER 3 - THE STATUS OF INDIVIDUALS

Combatants

1. A combatant is one who is permitted by the law of armed conflict to take a direct part in an armed conflict on behalf of a belligerent State. Combatant status is very closely related to entitlement to PW Status, see Chapter 7. The following are entitled to combatant status:
 - a. Members of the organised armed forces¹, even if they belong to a government or authority not recognised by the adversary, if those forces:
 - (1) are under a commander who is responsible for the conduct of his subordinates to one of the Parties in conflict; and *Prot I 43*
 - (2) are subject to an internal disciplinary system which enforces compliance with the law of armed conflict.
 - b. Members of any other militias, volunteer corps or organised resistance movements if:-
 - (1) they are commanded by a person responsible for his subordinates; and *GC III:4A(2)*
HR 1
 - (2) they are subject to a system of internal discipline; and
 - (3) they have a fixed distinctive sign, recognisable at a distance; and
 - (4) they carry their arms openly; and
 - (5) they comply with the law of armed conflict.
 - c. Members of a "levee en masse", that is civilians who spontaneously take up arms to repel an invasion without having had the time to form themselves into organised resistance movements or as parts of the armed forces, if: *GC III:4A(6)*
HR 2
 - (1) they carry their arms openly; and
 - (2) they comply with the law of armed conflict.

Guerillas

2. All combatants are required to distinguish themselves from the civilian population, usually by wearing uniform. However, where because of

1. It is customary for members of organized armed forces to wear a uniform. The definition is wide enough to cover auxiliary and reserve forces.

unusual combat conditions they are unable so to distinguish themselves, they do not lose their combatant status provided that they carry their arms openly during each engagement, and while visible to the enemy when deploying before attack. The UK considers that this situation can only exist in occupied territory or in the conflicts referred to in para 2b and c of Chapter 2. *Prot I 44(3)*

3. If combatants do not comply with the provisions of para 2 they will lose their right to be granted prisoner of war status but still have to be given the equivalent protections. *Prot I 44(4)*

4. 'Deployment' in this context means any movement towards the place from which the attack is to be launched.

Spies

5. Spies are persons who, acting clandestinely or on false pretences, gather information in the territory of a belligerent with intent to communicate it to the enemy. Those captured while engaged in espionage do not have PW status but may not be punished without trial. If members of the armed forces gather intelligence in occupied territory they may not be treated as liable to be tried for acts of espionage provided that they are in uniform. Even if not in uniform, members of the armed forces who were involved in spying cease to be liable to be tried for previous acts of espionage as soon as they return to their own lines. If subsequently captured they cannot be punished for their previous spying activities. *HR 29*
HR 30
Prot I 46
HR 31

Mercenaries

6. Mercenaries are neither combatants nor entitled to PW status. A mercenary, in simple terms, is a person who is specifically recruited and who actually takes part in conflict for private gain. He is not a member of any organised armed forces and has no connection with the States involved in the conflict. *Prot I 47*

Non Combatants with Military Forces

7. Medical personnel and chaplains have a special status. They are protected from attack under the Geneva Conventions (as are medical facilities and medical transport). Their protected status must not be used as a shield for military operations, nor may they take part in hostilities. For their position on capture see Chapter 6, paras 10 and 16.

8. Civilians accompanying the armed forces such as war correspondents, supply contractors and members of labour units or of welfare services are not combatants. They must have an authority from the armed forces which they accompany and be issued with an appropriate ID card. They may not take part in hostilities. For their position on capture see Chapter 7 para 4b.

Civilians

9. Civilians are all persons other than those defined in paragraphs 1 to 7 above. Civilians are protected from attack under the law of armed conflict. They lose their protection when they take a direct part in hostilities.

CHAPTER 4 - THE RULES OF COMBAT

Protection of Combatants

1. It is forbidden:
 - a. to kill, wound or capture an enemy by treachery. This means tricking an enemy into believing that he is entitled to, or required to give, protection under international law, with intent to betray that confidence. The feigning of an intent to surrender or feigning non-combatant status are examples of treachery. Ruses of war, however, are permitted. They are acts intended to mislead an enemy but not inviting his confidence. They include the use of camouflage, decoys, mock operations and misinformation. *HR 23*
Prot I:37
 - b. to kill or wound someone who is 'hors de combat', having laid down his arms, or who no longer has any means of defence. Those who have surrendered must be treated as PW (see Chapter 7) and there are special rules for the protection of enemy wounded and sick (see Chapter 6). This rule prohibits shooting at persons who are escaping from disabled aircraft. On the other hand, members of hostile airborne forces descending by parachute are legitimate military targets. *Prot I:41*

GC II 12
Prot I 8
 - c. to declare that no quarter will be given. *Prot I:40*
 - d. to make improper use of a flag of truce, protected emblems such as the Red Cross or Red Crescent or the emblem of the United Nations. In addition, it is forbidden to make any use of the flags, emblems and uniforms of States not parties to the conflict or of the enemy while engaging in attacks or in order to shield, favour, protect or impede military operations. *Prot I 38*
Prot I:39
 - e. to use a variety of specified weapon systems which include expanding bullets, poison or poisoned weapons and anti-personnel landmines.

Protection of Civilians

2. In the protection of civilians the following definitions apply:
 - a. "Attack" is any act of violence against an adversary whether in offence or defence, whether on one's own or foreign territory and directed at targets on land, whether from the land, sea or air. *Prot I 49*
 - b. "Military objectives" are:
 - (1) objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization in the *Prot I 52*

circumstances ruling at the time offers a definite military advantage. They include military buildings, minefields, weapons, concentrations of troops and individual enemy combatants. Depending on the circumstances, they may also include objects of an apparently civilian nature which are used for military purposes such as command and control sites, communications installations, power supplies, airfields, transportation and lines of communication; or

- (2) specified areas of land which either have military significance such as hills, defiles or bridgeheads or which contain military objects.

c. "Civilian objects" are all objects which are not military objectives.

- 3. Military operations may only be directed against military objectives. *Prot I 51*
Everything feasible must be done to verify that the target is a military objective. 52
57
- 4. In the choice of weapons or methods of combat, care must be taken to avoid or minimise incidental loss or damage to civilians or civilian objects. If the resulting loss or damage would be excessive in relation to the concrete and direct military advantage expected, the operation must be cancelled, suspended or re-planned. *Prot I 51*
52
57
- 5. Effective advance warning must be given of attacks which may affect the civilian population, unless circumstances do not permit. For example, where a place is to be bombarded, the commander of the attacking force is to do all that he can to warn the authorities before commencing the bombardment, except in cases of assault or where surprise is an essential element of success. This only applies to bombardment of places where there are still civilians remaining. *Prot I 51*
52
57
HR 26
- 6. Civilians should be removed from the vicinity of military objectives so far as possible, and the belligerents should endeavour to avoid siting their military installations near the civilian population. Failures by the defenders in this regard should not inhibit attacking commanders from attacking military objectives though they must, as always, take feasible precautions to minimize civilian casualties and damage (see para 9). *Prot I 58*
- 7. Family and private honour as well as religious convictions and practice are to be respected. *GC IV 27*

Prohibitions

- 8. It is forbidden:
 - a. to attack the civilian population, individual civilians or civilian objects as a deliberate method of warfare. *Prot I 51*
52

- b. to compel enemy nationals to take part in operations against their own country even if they were in your service before the outbreak of hostilities. *HR 23*
- c. to attack or bombard undefended towns, villages, dwellings or buildings. *HR 25*
- d. to commit pillage, even if the town or place concerned is taken by assault. *HR 28*
- e. to carry out reprisals against protected persons or property (see paragraphs 12-15).
- f. to starve civilians as a method of warfare. *Prot I 54(1)*
- g. to direct attacks at objects indispensable for the survival of the civilian population such as food-stuffs, crops, livestock and drinking water. *Prot I 54(2)*
- h. to use methods of warfare which are specifically intended or may be expected to cause widespread, long-term and severe damage to the natural environment. This rule does not necessarily prohibit the use of nuclear weapons against military objectives. *Prot I 55*
- i. to attack dykes, nuclear power stations or dams if to do so would cause the release of dangerous forces and consequent excessive losses among the civilian population, unless they are used in regular direct support of military operations and the attack is the only feasible way to terminate such support. *Prot I 56*
- j. to carry out indiscriminate attacks. These are attacks which are not directed at a military objective and which are likely to strike at military objectives and civilian objects without distinction. Area bombardment is an example of an indiscriminate attack. In considering whether an attack is indiscriminate the attack as a whole should be looked at, not merely parts of the attack, and commanders must necessarily make their decisions on the basis of the information reasonably available to them. *Prot I 51*

Precautions in Attack

- 9.¹ The military commander is required to: *Prot I 57*
 - a. when planning and conducting operations always take into account the effect they will have on the civilian population and civilian objects, including the environment.

1. Adapted from A P V Rogers, *Law on the Battlefield*, MUP, 1996, by permission of Manchester University Press.

- b. do everything feasible to verify that the target is a military objective.
- c. take all feasible precautions to reduce incidental damage and loss. This will involve a careful choice of weapons as well as care in preparing the plans for carrying out the attack.
- d. observe the rule of proportionality. This requires a calculation of the likely casualties, both military and civilian, and damage compared with the expected military advantage. It does not include matters over which the attacker has no control such as the effect of enemy action. Obviously, factors such as air supremacy or the availability of smart weapons will weigh heavily in favour of taking precautions to protect the civilian population. The military commander is required to refrain from launching the attack if the incidental damage will be disproportionate to the military advantage to be gained.
- e. be ready to cancel or suspend an attack, if necessary. This also involves weighing military against humanitarian considerations.
- f. give warnings, unless the circumstances do not permit.
- g. consider carefully his choice of targets in terms of what offers the best military advantage with the least incidental loss or damage.
- h. ensure that target lists are kept constantly under review in the light of changing circumstances.

Protection of Property

- 10. It is forbidden to destroy or seize enemy property unless it is militarily necessary to do so. *HR 23*
- 11. In sieges, bombardments or attacks precautions must be taken to spare, as far as possible, buildings dedicated to religion, art, science or charitable purpose, historic monuments, important works of art, hospitals and places where sick and wounded are collected, provided that they are not being used for military purposes. Buildings of this sort should be distinctively marked, clearly identifying them as places to be spared. If a cathedral, hospital, museum or similar building is used for some military purpose then it may become a legitimate military target and there may be no alternative but to destroy it. *HR 27
Prot I 53
HCP 4(1)*

Reprisals

12. Under customary law reprisals² are permitted in limited circumstances to counter unlawful acts of warfare. They can only be taken if:
- they are intended to secure legitimate warfare; and
 - prior warning is given; and
 - they are in proportion to the violation complained of; and
 - they cease when the violation complained of ceases; and
 - they are ordered at a high level.
13. Reprisals are an unsatisfactory way of enforcing the law. They tend to be used as an excuse for illegal methods of warfare with a danger of escalation through repeated reprisals and counter-reprisals.
14. The Geneva Conventions and Protocol I prohibit reprisals against prisoners of war; the wounded, sick and shipwrecked; medical and religious personnel, buildings and equipment; enemy civilians in territory controlled by a belligerent; other civilians; cultural objects; objects indispensable for the survival of the civilian population; the natural environment; and works containing dangerous forces. *GC I 46*
GC II 47
GC III 13
GC IV 33
Prot I 51(6)
Prot I 52(1)
Prot I 53(c)
Prot I 54(4)
Prot I 55(2)
Prot I 56(4)
HCP 4(4)
15. The United Kingdom reserves the right to take proportionate reprisals against an enemy's civilian population or civilian objects where the enemy has attacked our own civilians or civilian objects in violation of Protocol I. The decision to do so will be taken at Government level.

Non-Hostile Relations with the Enemy

16. It is within the legal competence of a military officer, where appropriate, to arrange a temporary cease-fire for a specific and limited purpose, for example to permit the collection or evacuation of the wounded. Any such action should be reported to higher authority. Absolute good faith is required in all such dealings with the enemy. Any other type of cease-fire or armistice could have far-reaching political or military consequences and needs the prior approval of the appropriate higher authority. *GC I 15*

2. Reprisal means a breach of the Law of Armed Conflict as a reply to a breach of that law by the enemy with the purpose of terminating the enemy violation.

Protective Zones

17. The law permits various zones to be set up for the protection of people from hostilities. They include hospital, safety, neutralized and demilitarized zones and non-defended localities. Generally they are protected from attack and military operations. They will be set up by higher authority who will publish the details and the rules to be observed, (see also Chapter 8 para 2).

GC I 23
GC IV 14
GC IV 15
Prot I 59
Prot I 60

Protective Emblems

18. The letters PW and PG, standing for Prisoner of War and Prisonnier de Guerre, if painted on the walls and/or roofs of prisoner of war camps show that those camps have protected status and may not be attacked. The letters IC stand for Internment Camp. Under the Fourth Geneva Convention of 1949 civilians may in certain circumstances be interned for security reasons. Internment Camps are, of course, protected and free from attack.
19. The red crescent and red cross on white back-grounds are the protective emblems for the medical services. Persons, units or establishments displaying either sign should not be attacked.
20. The white flag, or flag of truce, indicates no more than an intention to enter into negotiations with the enemy. It does not necessarily mean a wish to surrender. The party showing the white flag must stop firing and if so the other party must do likewise. There is no obligation to receive a flag party which may be sent back. The flag party may not be attacked and on completion of its mission must be allowed to return to its own lines. The Hague Rules provide for the flag party to consist of the envoy, flag bearer, interpreter and trumpeter, bugler or drummer. In modern warfare the latter may be replaced by a radio operator and the flag party may well travel in a vehicle flying the white flag.
21. Oblique red bands on a white ground may be used to indicate hospital and safety zones, (see paragraph 17).
22. Protocol I introduces some additional protective emblems. Three bright orange circles denote dykes, nuclear power stations or dams. The protective emblem for civil defence is a bright orange square with a blue equilateral triangle on it. Personnel and property of the civil defence organisations are also immune from attack.
23. The Hague Cultural Property Convention of 1954 established the emblem of the blue and white shield for the protection of cultural property. The UK is not a party to this Convention, but many States are bound by it as Parties. However, the UK is obliged to respect cultural property under Customary Law and Additional Protocol I.
24. Annex A to this Guide shows the design and colour of these protective symbols.

GC III 23
GC IV 83

GC IV 41
and 42

GC I 38
Prot I 8

HR 32

HR 33

GC IV
Annex 1
Art 6
Prot I 56
Prot I 66

HCP 16
Prot I 53
API 53

CHAPTER 5 - USE OF WEAPONS AND AMMUNITION

General

1. The Law of Armed Conflict deals with weapons in two categories:
 - a. Prohibitions on the use of weapons deemed to be unlawful.
 - b. Restrictions on the use of certain lawful weapons.

Lawful Weapons

2. All weapons in service with the British Army are lawful. However, it is still necessary to ensure that they are used in a correct manner. No unofficial changes or alterations should be made to weapons systems as these could affect their legality.
3. In a major or extended conflict, Service personnel may be called upon to use captured enemy weapons. Whilst this is not illegal in itself, prior approval should be obtained if the captured weapon is not currently in the Army inventory. In a life threatening situation, Service personnel should not hesitate to use whatever enemy weapon is available, provided that it is not obviously unlawful.

Prohibited Weapons

4. For UK forces the following are prohibited in international armed conflict:
 - a. explosive or inflammable bullets below 400 grammes for use against persons *St P Decl*
 - b. dum-dum bullets; (expanding bullets) *Hague Decl*
 - c. poison or poisoned weapons¹ *HR 23(a)*
 - d. arms, projectiles or material calculated/of a nature to cause excessive injury or suffering¹ *HR 23e
Prot I 35(2)*
 - e. chemical weapons¹ *CWC*
 - f. bacteriological weapons¹ *BWC*
 - g. weapons, the primary effect of which is to injure by fragments which in the human body escape detection by X-rays¹ *UNWC Prot I*
 - h. laser weapons specifically designed to cause permanent blindness¹ *UNWC Prot IV*

1. These are banned at all times including internal conflict.

i. Anti-Personnel Land mines (APL).²

OC

5. Apart from general restrictions on the use of weapons such as in targeting restrictions, certain weapons and weapons systems are subject to specific restrictions. These include:

a. Mines and booby traps and other devices. (See para 4i for provisions on APL). *UNWC Prot II*

b. Incendiary weapons. *UNWC Prot III*

6. Guidance on these weapons will be contained in The Law of Armed Conflict (JSP 383) and advice about their use can be obtained from ALS.

2. These weapons remain available for States who have not become party to the Ottawa Convention (eg USA). The Treaty covers use of such weapons at all times (including internal conflict)

CHAPTER 6 - WOUNDED, SICK, MEDICAL PERSONNEL AND CHAPLAINS

General

1. The rules are contained in the First Geneva Convention of 1949 as revised by Protocol I and cover the wounded and sick; medical units; medical personnel; buildings, materiel and transport used for medical purposes; chaplains; the Red Cross/Crescent emblem; implementation of the Convention and suppression of violations.
2. The Second Geneva Convention of 1949 gives much the same protection for the wounded, sick and shipwrecked at sea as that provided for sick and wounded members of armed forces in the field under the First Convention.

Wounded and Sick on Land

3. The wounded and sick are protected and must be humanely treated. Murder or violence to the person are strictly prohibited. Sick and wounded members of the opposing forces must not be tortured or subjected to biological experiments or abandoned without medical care. Priority in the order of medical treatment is decided only for urgent medical reasons. Women are to be treated with all consideration due to their sex. *GC I 12*
Prot I 10
11
4. Parties to the conflict are required to search for and collect the wounded and sick and to search for the dead and prevent their being despoiled. Arrangements may be made between the parties to permit the removal, exchange and transport of the wounded left on the battlefield. Similarly the passage of medical and religious personnel and equipment to the battle area is permitted. Despoiling dead bodies is strictly prohibited. *GC I 15*
5. Requirements are laid down for keeping records of the wounded, sick and dead. *GC I 16*
6. Provision is made for the handling of the dead. Cremation is allowed only on religious grounds or for imperative reasons of hygiene. *GC I 17*
7. Military authorities must allow the local population and relief societies to collect and tend the wounded and sick. No one is to be molested or convicted for having nursed the wounded or sick or for having acted in accordance with medical ethics. *GC I 18*
Prot I 16
8. Captured enemy wounded and sick combatants are PW but are evacuated initially through medical channels. *GC I 14*

Medical Units, Personnel and Resources

9. **Medical Units.** Protection from attack is given to fixed and mobile medical units and to medical transport eg ambulances. They must not take direct part in hostilities and, if they do, it may result in protection being forfeited. Medical units can be military or civilian and include medical depots and pharmaceutical stores as well as hospitals and treatment centres. GC I 19
21
Prot I 8
10. **Medical Personnel.** They are to be respected, protected and not attacked. The following additional points should be noted: GC I 24-32
- a. Medical personnel may carry and use small arms for their self-defence and for the defence of the wounded and sick in their care. This does not extend to resisting capture. GC I 22
Prot I 13
 - b. Military medical personnel who are captured are not prisoners of war. They may be "retained" for the sole purpose of providing medical care for PW of their own forces. While detained they are entitled to the protection of the PW Convention. They have direct access to the camp authorities and must be allowed access to PW in outside detachments. GC I 28
 - c. Military personnel who may have medical duties to perform on a temporary basis, eg regimental stretcher bearers, may not be attacked while performing medical duties. On capture they become PW but are to be employed on medical duties insofar as the need arises. GC I 25
GC I 29
11. **The Use of Enemy Medical Resources.** Medical material which is captured from medical units is to be reserved for the care of wounded and sick. Buildings, material and stores must be used for medical purposes unless urgently required for military purposes and alternative arrangements are made for treatment of the wounded and sick. Materials and stores of mobile and fixed medical units are not to be intentionally destroyed. Civilian medical resources may not be requisitioned so long as they are needed for the treatment of the civilian population. GC I 33
Prot I 14
12. **Air Medical Transport.** In addition to wheeled or tracked transport, helicopters are increasingly used for the evacuation of the wounded. Medical aircraft are protected in the same way as other medical transports, but, having regard to the range of anti-aircraft missiles, the problems of identification are greater. Overflight of enemy-held territory without prior agreement will mean loss of protection. Medical aircraft must obey summonses for inspection. Protocol I contains detailed new rules on medical aircraft and provides for light and radio recognition signals. GC I 36
Prot I 24-31

13. **Medical Emblem.** The distinctive emblem of the Red Cross or Red Crescent is to be displayed on the buildings and equipment of the medical services, but in the case of military units may be camouflaged on the order of the local tactical commander. Medical personnel must carry a special identity card and armband bearing the emblem. GC I 38-44
Prot I 18

Wounded, Sick and Shipwrecked at Sea

14. **Shipwrecked Vessels.** "Shipwrecked" means shipwrecked from any cause and includes forced landings at sea by or from aircraft. Shipwrecked persons may not be made the object of attack. Combatants are required to search for and collect the shipwrecked, wounded and sick and to ensure their adequate care. In appropriate local circumstances, arrangements should be made for the evacuation by sea of the wounded and sick and for the passage of medical and religious personnel and equipment especially from besieged areas. GC II 12
GC II 18
15. **Maritime Medical Transport.** There are detailed provisions for the protection of hospital ships. Other small craft which may be involved in rescue operations and the sick bays of warships are also protected under the Convention. Exterior surfaces of hospital ships should be painted white with dark red crosses, as large as possible, displayed on each side of the hull and on the horizontal surfaces so as to afford the greatest possible visibility from the sea and from the air. GC II 22-35
GC II 43

Chaplains

16. Chaplains attached to the armed forces have protected status and may not be attacked. They wear an armband showing the Geneva emblem and carry a special ID card. They may not be armed. If captured they may be "retained" to meet the spiritual needs of PW of their own forces. They have direct access to the camp authorities and must be allowed access to PW in outside detachments. GC I 24
GC I 40

CHAPTER 7 - PRISONERS OF WAR (PW)

Introduction

1. The Third Geneva Convention of 1949 is to some extent a restatement of the basic principles of international law relating to PW. Its provisions are to be read with those of the other three Conventions of 1949. There are 143 Articles in the Convention together with 5 annexes including a model agreement for repatriation of wounded and sick PW.
2. The fundamental principle underlying the treatment of PW is that they are war victims, not criminals, and are entitled to humane and decent treatment throughout their captivity. Once combatants have surrendered they must not be attacked but should be handed over without undue delay to appropriate PW processing authorities.

Prisoner of War Status

3. PW status starts at the moment of capture and continues until final release and repatriation.
4. Only the following are entitled, as of right, to PW status:
*Prot I 44
GC III 4A*
 - a. Those having combatant status, see Chapter 3.
 - b. Civilians who accompany the armed forces, such as war correspondents and welfare personnel, provided that they are duly authorised.
 - c. Merchant sailors and crews of civil aircraft - provided that they do not qualify for more favourable treatment under other provisions of international law.
5. The following are entitled to be treated as PW:
GC III 4B
 - a. Persons belonging or who have belonged to the armed forces of the occupied territory if the occupying power considers it necessary by reason of their allegiance to intern them.
 - b. Persons in one of these categories who have been received by a neutral or non-belligerent power and who are required to be interned under international law.
6. If there is doubt about the status of a captured person, he should be treated as a PW until his status has been determined by an appropriate tribunal.
*GC III 5
Prot I 45*

Basic Protection of Prisoners of War

7. It is important to remember that PW are in the hands of the enemy State, and NOT the individuals or units which capture them. *GC III 12*
8. PW must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering any PW in its custody is prohibited and may lead to individuals responsible facing prosecution for war crimes. *GC III 13*
9. PW are entitled in all circumstances to respect for their persons and their honour. Specific mention is made of women in this respect. *GC III 14*
10. PW must be provided with free maintenance and medical attention. *GC III 15*
11. There must be no adverse discrimination on account of race, nationality, religious belief or political opinions or any other distinction founded on similar criteria. *GC III 16*

Action on Capture

12. When questioned a PW is bound to give his full name, rank, service number and date of birth so that an identity can be established and his next of kin informed of his capture. To this end every State is required to issue to each person who is liable to become a PW an identity card containing this minimum information. A PW is not required to provide any further information and no physical or mental torture nor any form of coercion may be used to obtain it. *GC III 17*
13. PW should be searched, disarmed and their weapons and ammunition together with other military equipment should be removed (but see para 14).
14. A PW is entitled to keep his or her identity card, personal property, decorations, badges of rank, articles of sentimental value and military clothing and protective equipment such as combat helmets, gas masks and NBC clothing. *GC III 18*
15. Money and valuables may only be taken on the order of an officer for safe-keeping. A receipt must be given and a record kept of the items taken and from whom.
16. PW shall be evacuated as soon as possible after their capture to camps which are not unnecessarily exposed to danger. *GC III 19*
17. The evacuation and movement of PW must be carried out humanely. Sufficient food and water, clothing and medical attention must be provided. *GC III 20*

Internment

18. Usually PW are interned. But they may be released on parole if this is allowed by the law of their own State. *GC III 21*

Conditions of Internment

19. Some of the most important rules on internment are:
- a. PW camps must be located on land, not in prison ships, and afford every guarantee of hygiene and health. *GC III 22*
 - b. The Detaining Power must inform other parties to the conflict of the location of PW camps and the siting of air protection shelters, marking them so that they are clearly identifiable from the air. *GC III 23*
 - c. The accommodation which is provided for PW shall be of a similar standard to that for the forces of the Detaining Power who are billeted in the same area. In camps where there are women PWs as well as men, they should be accommodated in separate dormitories. *GC III 25*
 - d. Food sufficient in quantity, quality and variety to keep prisoners of war in good health must be provided and account should be taken of the habitual diet of the prisoners. Food must not be restricted as a form of collective punishment. *GC III 26*
 - e. PW must be provided with adequate clothing including footwear and working clothes. *GC III 27*
 - f. PW must be allowed to send a capture card to the protecting power and to their next of kin immediately upon capture, or not more than one week after arrival at a PW camp. The Convention contains detailed rules about further correspondence. *GC III 70*

Medical and Religious Facilities

20. The Convention makes a number of provisions in relation to medical and religious facilities including:
- a. Every PW camp must be equipped with adequate medical facilities. If possible, prisoners should be treated by medical personnel of their own nationality or forces. *GC III 30*
 - b. Medical inspections of PW must be carried out at least once a month. *GC III 31*
 - c. PW who are medically qualified, though not attached to the medical services of their armed forces, may be required to attend to prisoners. *GC III 32*

- d. Prisoners must be allowed freedom in the exercise of their religious beliefs. Accommodation must be provided for religious services. *GC III 34*
- e. Chaplains who are captured must be allowed to minister to PW and to perform their religious duties. *GC III 35*

Work

21. The Convention provides that:

- a. PW, other than officers, may be required to work. NCOs may only be required to do supervisory work. Officers may not be compelled to work but if they ask for suitable work, they should be given it. *GC III 49*
- b. Apart from work connected with the administration of the camp, a PW may be required to do work within the following categories: *GC III 50*
 - (1) agriculture;
 - (2) industry involving production of raw materials and manufacturing, excluding metallurgical, machinery and chemical industries;
 - (3) public works and building operations which have no military character or purpose;
 - (4) transport and handling of stores which are not military in character or purpose;
 - (5) commercial business and arts and crafts;
 - (6) domestic service;
 - (7) public services having no military character or purpose.
- c. PW may not be required to do work that is unhealthy or dangerous (eg clearing mines) unless they are genuine volunteers. *GC III 52*

Discipline

22. Amongst the provisions in the Convention dealing with discipline are the following:

- a. All PW must salute the PW camp commandant. Soldiers salute officers of the Detaining Power. Officers salute officers of the Detaining Power of higher rank. *GC III 39*

- b. PW are subject to the same disciplinary provisions as are the soldiers of the Detaining Power. GC III 82
- c. Disciplinary punishment may only be ordered by the PW camp commandant or an officer to whom he has delegated his power. GC III 96
- d. The disciplinary punishments which may be imposed on PW include a fine of up to 50% of advances of pay, loss of privileges, 2 hours of daily fatigues (not applicable to officers) and confinement. In no case may disciplinary punishment be inhumane, brutal or dangerous to health, nor may the duration exceed 30 days. GC III 89
90
- e. Where trial of a PW by court-martial is contemplated, the Protecting Power must be notified of all particulars at least 3 weeks before the opening of the trial. GC III 104
- f. No PW may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law in force when the act in question was committed. GC III 99
- g. No PW may be convicted by court-martial without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel. GC III 99

The Protecting Power

- 23. The Protecting Power is a neutral State appointed to ensure that the Convention is observed. The Protecting Power's duty is to safeguard the interests of the parties to the conflict. To achieve this the Protecting Power may appoint delegates to carry out its duties. The Protecting Power has various functions, notably to inspect PW camps and to deal with prisoners' appeals for help in correcting any violations of the Convention by the Detaining Power. If no neutral Protecting Power has been appointed, its functions can be exercised by the ICRC or some other humanitarian organisation GC III 8
GC III 9

GC III 10

Prisoners' Representative

- 24. An important spokesman for PW in dealing with the Detaining Power, Protecting Power or the ICRC is the PW representative. He is usually the senior PW officer. If there is no officer detained in the PW camp the prisoners' representative is elected. However, the representative elected must be approved by the Detaining Power before he has the right to commence his duties. In all cases the prisoners' representative must have the same nationality and speak the same language as the PW whom he represents. GC III 79

Repatriation

25. PW must be released and repatriated without delay after the cessation of active hostilities. Arrangements may be made for the repatriation during hostilities of the seriously wounded or sick, unless hospital treatment in a neutral country is possible. *GC III 118*
GC III 109

CHAPTER 8 - PROTECTION OF CIVILIANS IN ENEMY HANDS

Introduction

1. The Fourth Geneva Convention of 1949 was a significant development in the law of armed conflict. Although the Hague Rules contained some provisions relating to occupied territory, there were before 1949 no detailed rules protecting civilians who were in the hands of a belligerent state of which they were not nationals. The 1949 Civilian Convention gives them protection.

General Provisions

2. **Safety Zones.** Safety zones may be set up to contain hospitals, shelters for the wounded and sick, the old and infirm, children under 15 years of age, expectant mothers and mothers with children under 7 years of age. See also Chapter 4, para 17. GC IV 14
3. **Evacuation.** A local cease-fire may be arranged for the removal from besieged or encircled areas of the wounded and sick, children, old persons and maternity cases. See also Chapter 4 para 6. GC IV 17
4. **Protection for Civilian Hospitals, Staff and Transport.** The protection traditionally reserved for the army medical services is extended to civilian hospitals, staff and transport by land, sea and air. GC IV 18-22
Prot I 8-31
5. **Free Passage of Relief Supplies.** The free passage of medical and hospital stores and objects for religious worship intended for civilians is guaranteed as well as essential food and clothes for children, expectant mothers and maternity cases. GC IV 23
Prot I 71
6. **Child Welfare.** Parties to the conflict are to care for children under 15, orphans and those separated from their families and where appropriate facilitate their reception in a neutral country. They are not to be subject to political propaganda. GC IV 24
Prot I 77 & 78
7. **Family News.** The parties to a conflict are to facilitate members of families to keep in touch with one another and if possible facilitate reuniting families. GC IV 25, 26
Prot I 74

Protected Persons

8. Protected persons are those who at any time and for any reason are in the hands of a party to the conflict or Occupying Power of which they are not nationals. The most common categories are enemy nationals in your own territory and the population of occupied territory. GC IV 4
9. An obligation is imposed on belligerents to deal humanely with protected persons. Violence, torture, biological experiments, pillage, intimidation or coercion to obtain information, the imposition of corporal or collective GC IV 27-34

punishment and the taking of hostages are forbidden. In all circumstances the person, honour, family rights, religious convictions, manners and customs of protected persons should be respected. The question of honour of women is specific. There must be no rape, no enforced prostitution and no indecent assault. *Prot I 72-79*

The Treatment of Enemy Aliens

10. Enemy aliens who wish to leave the territory of the other Party must, so far as possible, be permitted to do so. The Convention ensures the humane treatment of those who remain. Unless security reasons necessitate controls such as internment, they must be allowed to lead a normal life. There are detailed rules on conditions of internment. *GC IV 35, 41-43 & 78-135*

Occupied Territories

11. The provisions of the Convention which deal with the administration of occupied territories are extensive. The aim is to ensure that the Occupying Power will respect the basic human rights of the people who live in the occupied territory. The destruction of property is forbidden except where absolutely necessitated by military operations. In general terms, the Occupying Power must care for the civilian population. *GC IV 47-78*

CHAPTER 9 - SERVICE DISCIPLINE

1. Military persons are required to obey lawful commands but must not obey unlawful commands. If a soldier carries out an illegal order, the fact that a crime has been committed by a person pursuant to an order of a Government or of a superior, shall not relieve that soldier of criminal responsibility unless:
 - a. The soldier was under a legal obligation to obey orders of the Government or the superior in question; and
 - b. The soldier did not know that the order was unlawful; and
 - c. The order was not manifestly unlawful.
2. Orders to commit genocide or crimes against humanity are manifestly unlawful.
3. Breaches of the law of armed conflict can lead to disciplinary action or prosecution before military tribunals or civil courts. Serious war crimes may be prosecuted under the International Criminal Court Act 2001. These offences carry a maximum prison sentence of 30 years or, in cases equating to murder, life imprisonment. Indirect participation such as aiding and abetting can also be prosecuted under this Act.
4. Commanders, at all levels, can be held responsible for the acts of their subordinates where a commander knew or, owing to the circumstances at the time, should have known, that his subordinates were committing or about to commit offences and he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
5. A number of international courts have now also been established to deal with war crimes, genocide and "crimes against humanity". These include the Tribunal for the Former Yugoslavia and the Tribunal for Rwanda. Both these tribunals have primacy over national courts. The permanent International Criminal Court was established on 1 July 2002 and the UK is a party to it. Unlike the Tribunals, it only has jurisdiction where national authorities are "unwilling or unable" to take jurisdiction themselves. It is UK Government policy that all allegations of crimes within the jurisdiction of the ICC will be investigated and, where appropriate, prosecuted by national courts, either civilian or military.
6. A captured soldier who has committed war crimes can expect to be dealt with according to the military law of the Detaining Power or by a war crimes tribunal. However, he or she does not lose PW status.

CHAPTER 10 - INTERNAL ARMED CONFLICT

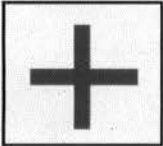
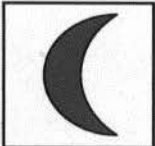
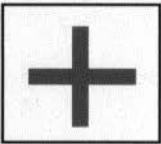
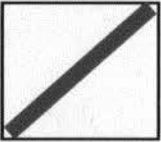

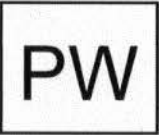

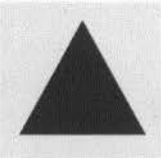
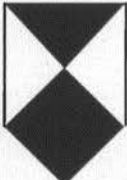
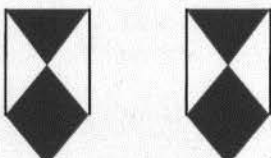

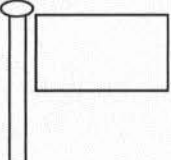
1. International law makes a clear distinction as to the rules applicable in international armed conflicts and those applicable in internal armed conflicts, though some fundamental principles apply to both. Sometimes, it is not at all clear whether the armed conflict is international or internal. It has been said of the conflict in the Former Republic of Yugoslavia after 1991 that it consisted of a complicated series of internal and international armed conflicts. Advice on the status of the conflict should be sought from ALS.
2. Internal disturbances and tensions such as riots, isolated and sporadic acts of violence, and other acts of a similar nature, are not armed conflicts as a matter of law. *Prot II 1(2)*
3. In the event of an armed conflict not of an international character (ie a civil war or other internal armed conflict), Common Article 3 to the 1949 Geneva conventions will apply to the parties. This provides:
 - a. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed '*hors de combat*' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
 - (1) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - (2) taking of hostages;
 - (3) outrages upon personal dignity, in particular, humiliating and degrading treatment;
 - (4) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
 - b. The wounded and sick shall be collected and cared for.
 - c. Humanitarian organisations such as the ICRC may offer their services, and the parties to the conflict are encouraged to agree to a wider application of the Geneva Conventions.

4. In armed conflicts between dissident armed forces and the forces of a State where the dissidents being under responsible command exercise such control over a part of the territory of a High Contracting Party as to enable them to carry out sustained and concerted military operations, Protocol II to the 1949 Geneva conventions will apply. This lays down additional rules for the protection of detained persons, the wounded and sick, the civilian population and for regulating penal processes. It does not, however, give PW status to detainees. *Prot II 1(1)*
5. There is a growing trend to bring together the laws relating to international and non-international armed conflict, thus extending the scope of the laws relating to the latter. If in doubt, Service personnel should always apply the higher standard of behaviour.
6. These rules are similar to those contained in the United Nations international covenants and conventions on human rights which will continue to apply during the armed conflict (subject to any derogation - about which ALS advice should be sought).

CHAPTER 11 - PEACE SUPPORT OPERATIONS

1. The Law of Armed Conflict will not strictly apply to peace support operations short of peace enforcement such as the more traditional form of UN peacekeeping (ensuring the delivery of humanitarian aid or supervising peace or ceasefire agreements). However UN and other peace support forces will be expected to use the Law of Armed Conflict as the basis for their actions.
2. However, where the mission requires the use of force going beyond that allowed under the rules of self defence, it becomes a question of fact whether that use of force is such that the UN or other Peace support forces have become parties to an armed conflict. In that eventuality, the laws of armed conflict will apply. While the position may be clear in peace enforcement operations such as the Gulf Conflict of 1990-91, it may be less clear in cases such as protection of safe areas or the enforcement of no-fly zones. Instructions will be given by the appropriate authority and legal advice should be sought from ALS.
3. In all these situations, the legal situation could be very complex and ALS advice should be sought where necessary. The law applying to troops in a peace support role may include:
 - a. The terms of the UN Security Council resolution or other mandate.
 - b. The right of self-defence under international law.
 - c. The law of armed conflict (if applicable).
 - d. The terms of the peace or ceasefire agreement to be implemented.
 - e. The law of the host country or countries (so far as it is not excluded from application to peace support forces by any status of forces agreement).
 - f. Military Law including English criminal law.
4. Compliance with any Rules of Engagement (as agreed by the UK Authorities) should ensure that all use of force is lawful.

PROTECTIVE EMBLEMS

	or		Red Cross/Red Crescent
			Red Cross Personnel
			Hospital and Safety Zones
			Prisoner of War Camp
			Internment Camp
			Distinctive Sign of Civil Defence
			Distinctive Emblem of Cultural Property
			Special Distinctive Sign
			Works Containing Dangerous Forces
			Flag of Truce

AN AIDE MEMOIRE FOR USE IN ARMED CONFLICT

1. Fight only enemy combatants and attack only military objectives.
2. Employ methods of attack which will achieve your objective with the least amount of incidental civilian damage.
3. Do not attack enemy soldiers, sailors or airmen who surrender. Disarm them and treat them as prisoners of war.
4. Collect and care for the wounded or sick whether friend or foe.
5. Do not torture, kill or abuse prisoners of war.
6. Treat all civilians humanely.
7. Respect civilian property - looting is prohibited.
8. Respect all cultural objects and places of worship.
9. Respect all persons and objects bearing the Red Cross, Red Crescent and other recognized symbols of humanitarian agencies.
10. Do not alter your weapons or ammunition to increase suffering.
11. Do not attack persons and objects that display the protective emblems illustrated overleaf.
12. It is the duty of all ranks upon becoming aware of an allegation of any breach of the law of armed conflict to report the circumstances to their Commanding Officer.
13. Disobedience of the Law of Armed Conflict is a crime and not only dishonours your country and you but renders you liable to punishment as a war criminal.

These rules are based on [Annexes A and B] Army Code 71130,
A Soldier's Guide to the Law of Armed Conflict

AN AIDE MEMOIRE FOR USE IN PEACE SUPPORT OPERATIONS**Use of Force**

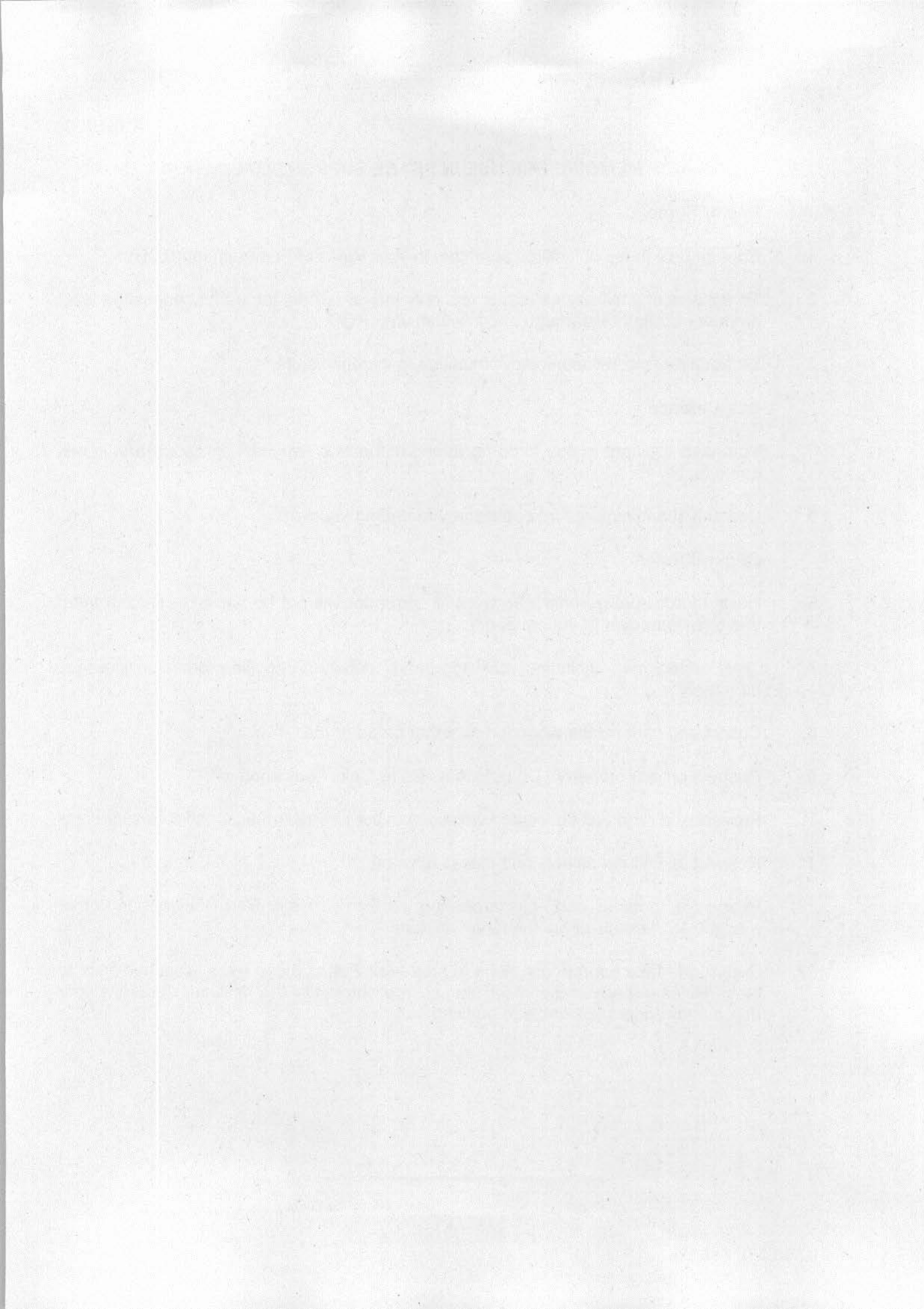
1. Engage only those objectives permitted in your Rules of Engagement (ROE).
2. To achieve any military objective, use only the necessary force that causes the least amount of collateral damage and is within your ROE.
3. Do not alter your weapons or ammunition to increase suffering.

Self-Defence

3. You have the right to use force (including authorised weapons as necessary) in self defence.
5. Use only the minimum force necessary to defend yourself.

General Rules

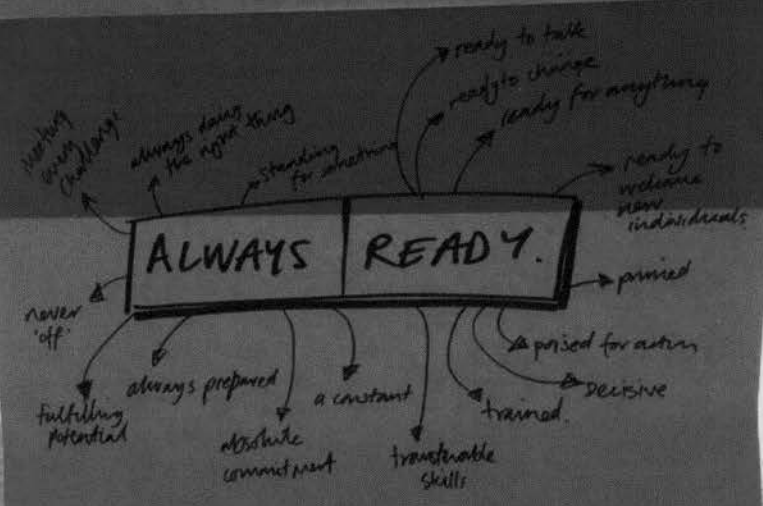
6. Hostile forces/belligerents who want to surrender will not be harmed. Disarm them and turn them over to your superiors.
7. Treat everyone, including civilians and detained hostile forces/belligerents, humanely.
8. Collect and care for the wounded, whether friend or foe.
9. Respect private property. Do not steal. Do not take "war trophies".
10. Prevent and report all suspected violations of the Law of Armed Conflict to superiors.
11. Respect all cultural objects and places of worship.
12. Respect all persons and objects bearing the Red Cross or Red Crescent and other recognized symbols of humanitarian agencies.
13. Report and take appropriate steps to stop breaches of these rules. Disobedience to these Rules will adversely affect the accomplishment of the mission, discredits your Force and renders you liable to punishment.



Discussion document
To define focus group testing

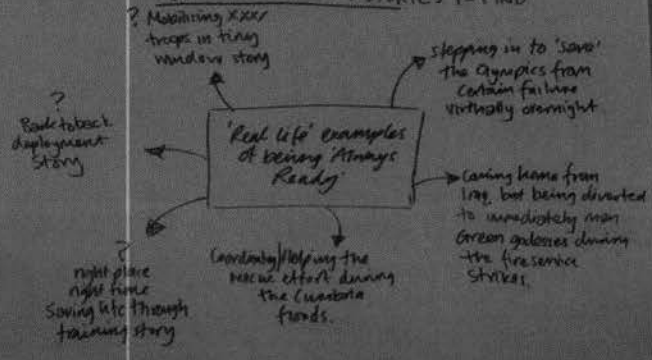
CREATIVE THEME 1

ALWAYS READY.

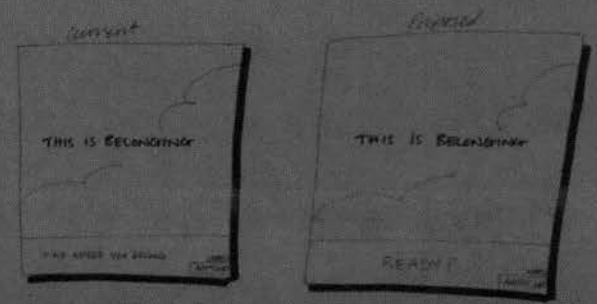


PROOF POINTS

REAL LIFE STORIES + STORIES TO FIND



PROOF POINTS: RECRUITMENT



ALWAYS READY

Ready?

We are.

Ready for today. Ready for tomorrow.

Ready to protect our nation.

Ready to stand up for its values.

Ready to make a decisive impact, at a moment's notice.

Ready to do the right thing in the most challenging circumstances.

Ready to welcome all kinds of people, from all walks of life.

Ready for whatever the future brings.

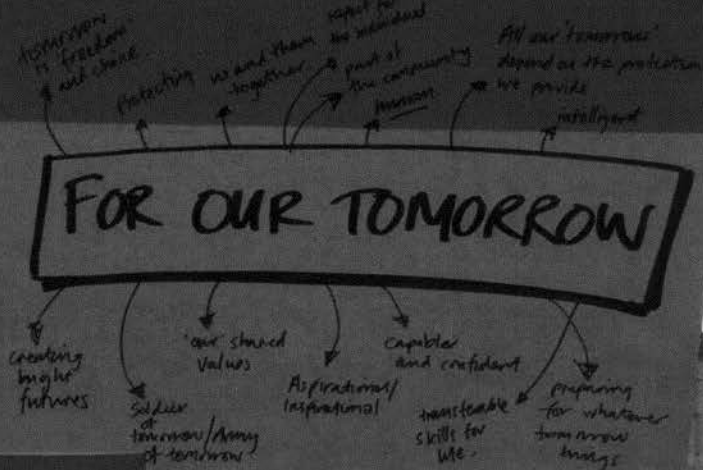
Most of all, our people are ready. For extraordinary challenges, for a uniquely rewarding career in the Army, and for a successful life outside it.

CREATIVE THEME

2

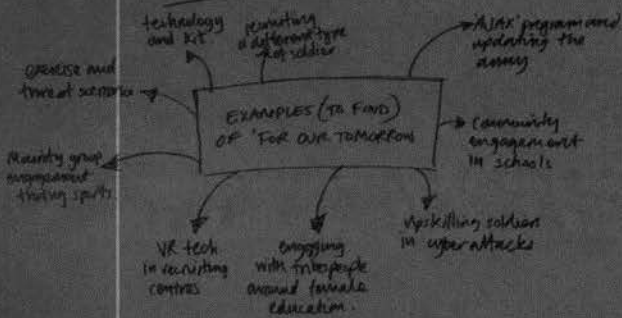
FOR OUR TOMORROW.

FOR OUR TOMORROW



PROOF POINTS

STORIES TO FIND



FOR OUR TOMORROW

Freedom is made up of tomorrows.
Your tomorrow. Our tomorrow.
Incredible tomorrows. Ordinary everyday tomorrows.

Going to work. Or going on holiday.
Meeting friends. Shopping.
Buying a coffee from your favourite place.

If you can plan for tomorrow.
If you can sleep at night knowing that you'll wake up to millions
of possibilities.
If you can make choices.
You are free.

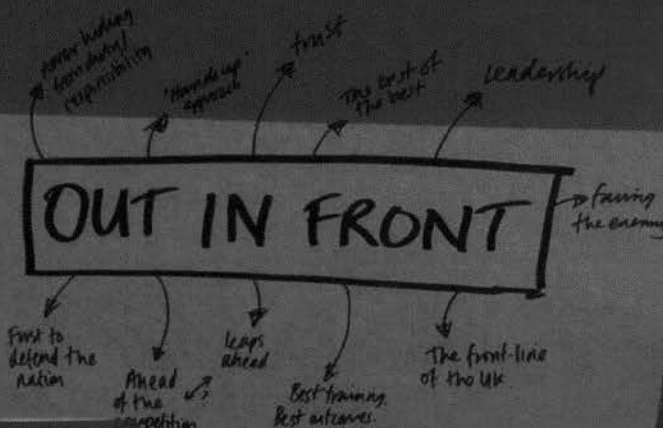
That's the freedom the Army exists to protect, for all of us.

CREATIVE THEME 3



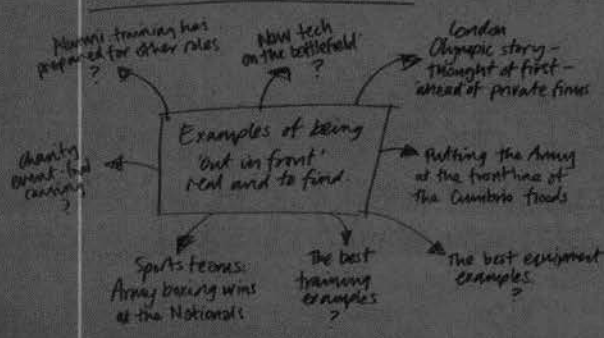
OUT IN FRONT

OUT IN FRONT



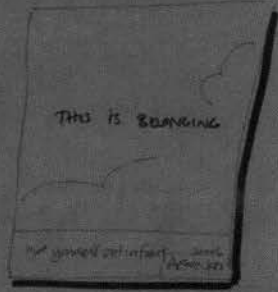
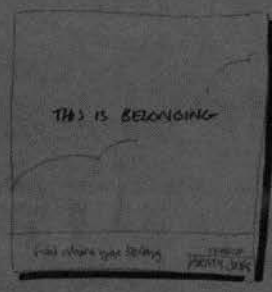
PROOF POINTS

REAL LIFE STORIES + STORIES TO FIND



PROOF POINTS:

RELEVANT



OUT IN FRONT

The Army leads from the front.

We take responsibility

We take control.

We go further.

Act faster.

Push harder.

Think smarter.

Stand taller.

Aim higher.

We never give up and never stop improving.

But we are not a breed apart.

We inspire ordinary people to be exceptional.

We understand that the world's best soldiers come from all types of backgrounds.

Together we are a team that stands for something.

That protects and reflects the nation.

