

of this (i.e. that the NCC had been consulted when the initial order was made), I would not expect MND (SE) to have countermanded the order without reference to their higher HQ (namely PJHQ).

76. Following the death of the detainee a number of discussions/meetings took place within PJHQ, at least two of which I attended, along with Col Duncan, and I think on one occasion Maj Gen Brims. At some stage during this time, I sought advice from a doctor serving within the J4 Medical Branch at PJHQ but I cannot recall his name or any details about him other than I seem to recall he wore a turban. He provided me (I think by email) with a very short assessment that the use of hoods could cause breathing difficulties that might go as far to include asphyxiation. This was the first time that I became aware of such a risk associated with hooding.
77. During the meetings that I attended I provided verbal advice which is likely to have included reference to this medical opinion. Such advice was backed up by the email advice dated 17 September 2003 (document MOD022183). In a nutshell, my advice was that, due to the risk of asphyxiation, hoods should not be used for any purpose. Further, I advised that blindfolding through the use of blacked out goggles would be acceptable for security reasons subject to certain conditions. The conditions I refer to are those as set out in the email (MOD022183) – essentially that there was no other way to achieve the result and the blindfold was to be worn for no longer than is necessary. Also during the planning of operations consideration should be given to taking steps to eliminate or reduce any need to blindfold. Blindfolding was not justified for purposes of disorientation as this would offend Article 17 GCIII and European Human Rights standards.
78. In my email, I refer to hooding being used for the purposes of sensory deprivation. I do not recall where this information came from but I was not aware of it until this incident was reported. It is likely to

have seen part of the information that came to light following the death of Baha Mousa. As to my observation that prohibiting blindfolding on grounds of disorientation 'may prove controversial and contrary to standard practice', I cannot remember now why I formed this view, but it must have come from the information surrounding the Baha Mousa incident which, on viewing Lt Col Duncan's response to my email (MOD022183), could have included an aspect surrounding the multi-national nature of some detention.

79. The email was directed to the Deputy Assistant Chief of Staff J1 Branch at PJHQ (whose name I cannot recall) as he had the staff responsibility for detainees. It was copied to, among others, the the head of J9, the Civil Secretary, Mr Paul Flaherty, Rachel Quick, Comd Legal MND(SE), PJHQ J2 Deputy Assistant Chief of Staff J2, Col Duncan, and the Military Assistant (whose name I cannot recall) to the Deputy Chief of Joint Operations (Operations), Maj Gen Brims.
80. My advice was discussed at the meeting which Maj Gen Brims attended (see paragraph 76 above), and he was content with it. I cannot now remember whether Maj Gen Brims and I spoke on a one to one basis. My recollection is that Maj Gen Brims stated that the use of hoods was to cease. I am unsure how this was communicated more widely.
81. In October 2003, as part of a visit to various locations for reasons unconnected with the matters under consideration, I visited the UK's Interrogation Facility at what by then had become known as the Theatre Internment Facility (TIF) at Umm Qasr. Whilst there, I was briefed by the Officer Commanding the interrogation facility (a female Intelligence Corps Officer whose name I cannot recall) who advised me that prisoners were not hooded or placed in stress positions. If I saw any prisoners during that visit, they were not hooded, because I would certainly remember if they had been.