

# 1 Defence Direction for Initial Training

## 1.1 Supervisory Care for Phase 1 Recruits and Phase 2 Trainees

**Policy Sponsor: TESRR, CDP<sup>1</sup>**

As an employer, the MOD has care and welfare obligations for all the recruits and trainees in its charge; this duty has legal, moral and presentational components. The expression used to describe the moral component is Supervisory Care. Supervisory Care entails the provision of an appropriate military, pastoral and welfare regime that goes beyond merely the delivery of military, technical or specialist training and/or education and includes the inculcation of professional military ethos. It also includes the need for recruits and trainees to be mentored by suitable military and/or civilian staff, and recognises the particular vulnerabilities associated with initial training and the transition from civilian to trained military personnel and youth to adult. Commanding Officers (COs) of training establishments are directly responsible and accountable for ensuring an effective Supervisory Care regime is established for the recruits, trainees, cadets, Under 18s (U18s) and other students within their establishments. Such regimes must be all-embracing and should include core training as well as all other activities.<sup>2</sup>

Single Service (sS) 2<sup>nd</sup> party assurance teams routinely assess the implementation and effect of policies within the Initial training environment. Coupled with external Ofsted inspections, these assessments spread good practice and identify potential improvements to policies and to their implementation. Further feedback is received from users and as a result of the wider Defence Training Assurance process.<sup>3</sup> This policy builds on previous Direction and Guidance, bringing together feedback received from relevant parties to ensure currency and spread good practice.

### Scope

1. This Direction applies to all Defence personnel and contractors involved in the provision or support of Defence training and education in Phase 1 and Phase 2 training establishments, units and groups, and is to be extended to Phase 3 trainees where there is a clear link to Phase 1 or Phase 2 or the training pipeline for U18s.

### Aim

2. The aim of this Direction is to ensure that effective Supervisory Care regimes are established in all Defence and sS Initial training establishments, units and groups in order to satisfy Defence's care and welfare<sup>4</sup> obligations towards Phase 1 recruits and Phase 2 trainees, and where appropriate to Phase 3 trainees.

### Principles

3. Supervisory Care is a regime that aims to provide appropriate levels of support, assistance or advice to recruits and trainees during their initial training. Maintenance of good order and discipline in accommodation, communal, instructional and recreational areas is an essential element of this regimen. The Supervisory Care regime is to be based on the outcome of a comprehensive Commander's Risk Assessment (CRA). COs are to publish the resulting supervisory arrangements in a Supervisory Care Directive. Such Directives are to be reviewed regularly (at least annually) and adjusted as required in order to ensure the arrangements and

<sup>1</sup> Training Education, Skills, Recruitment and Resettlement, part of Chief Defence Personnel, 6<sup>th</sup> Floor, MOD Main Building.

<sup>2</sup> Examples of personnel and activities include potential recruits, holdovers, those awaiting trade training, transfer or discharge, U18s engaged in Ph 3 training, those undertaking rehabilitation, temporary out-placements, Adventure Training, acquaint activities and the hosting of cadet camps.

<sup>3</sup> JSP 822: Governance and Management of Defence Individual Training and Education, Pt 3, Ch 3 and Pt 5, Ch 6.

<sup>4</sup> Care and welfare refers to the general and immediate provision of support for recruits and trainees, specifically those practical aspects in place to identify any recruits or trainees at risk. Care and welfare has both a legal and moral component to care for the well being of recruits/trainees.

procedures reflect the risks and remain robust and effective. All permanent staff, recruits and trainees are to have relevant details of the Directive explained to them as part of their formal induction to the unit. Federated training establishments, and sites that host a number of units, including training units, are to adapt this Direction to ensure a coordinated, coherent approach is taken towards all individuals on the same site or within the same organisation, as appropriate.

## Definitions

4. The Safeguarding Vulnerable Groups Act 2006 defines two groups of people within its scope; children, and vulnerable adults.

a. **Child.** The Children Act 1989 defines a child as; any person under the age of 18 years including those persons U18 that;

(1) Are living independently.

(2) Are in further education.

(3) Are a member of the armed forces.

(4) Are in hospital.

(5) Are in prison or a young offenders institution.

(6) Any person aged 18, 19 or 20 who; has been looked after by a local authority at any time after attaining the age of 16, or has a learning disability.

b. **Vulnerable Adult.** Defined as;

(1) Those in residential accommodation provided in connection with care or nursing or in receipt of domiciliary care services.

(2) Those receiving health care.

(3) Those in lawful custody or under the supervision of a probation officer.

(4) Those receiving a welfare service of a prescribed description or direct payments from a social services authority.

(5) Those receiving services, or taking part in activities, aimed at people with disabilities or special needs because of their age or state of health.

(6) Those who need assistance in the conduct of their affairs.

## Discipline

5. It should be noted that all Service Personnel (SP) including recruits and trainees, are subject to Service law irrespective of their stage of training. However, the application of Service discipline should be appropriate and proportional to the principles of Service law and sS values, standards and ethos<sup>5</sup> when dealing with those in Initial training. In addition, recruits and trainees can be subject remedial training, including verbal rebuke and minor sanctions.<sup>6</sup>

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<sup>5</sup> Defence Direction on Values, Standards and Ethos Training are contained within this JSP.

<sup>6</sup> Defence Direction on Remedial Training in Initial Training is contained within this JSP.

## **Risk assessment**

6. The Supervisory Care Directive is underpinned by the CRA which must contain a succinct explanation of the unit's role and environment, and a comprehensive assessment of risks to recruits and trainees. The CRA must take account of the particular and local factors pertaining to the establishment in question and must contain a detailed analysis of the trainee population (including any Phase 3 trainees – particularly if linked to Phase 2 or U18 or if deemed at particular risk), the type of issues they generate, and the nature of training and education being undertaken. Issues pertaining to permanent staff morale, their welfare and support must also be included in the CRA. The CRA is a complex and substantive piece of work and COs must involve themselves personally in its development, as well as trainers, administrative and welfare staff. Doing so assists in identifying the risks and in developing appropriate mitigation measures. It also helps to improve the staff's understanding of the risks and broadens ownership of the mitigation measures.

7. Factors for consideration in assessing risks are at Annex A. The reasoning behind each identified risk must be included together with the measures developed to mitigate them. The CRA must form a robust and easily understood analysis that identifies a clear relationship between risk / levels of staff supervision (in terms of number, gender, competence and so forth) for the size, age, maturity and diversity of the trainee population, and the location and nature of the activity (informed by an analysis of the unit's record of relevant incidents and any other pertinent data). COs must also take account of the implications for trainers (particularly junior ones), whose work/life balance is often poor due to the increased pressure placed on them: similarly, those who have recently returned from operations may present a particular risk. Finally, the CRA should not be confused with the separate requirements of JSP 375.<sup>7</sup> The template provided in JSP 375 is not well-suited to the training environment and should not be used in this context.

## **Supervisory Care Directive**

8. The Supervisory Care Directive, which follows on from the CRA, must be a living, practical document that provides instructional staff with an overview of how the unit works and their part in its running. In essence, the Directive must stipulate the standards to be achieved and who is to do what to achieve them. In so doing, the document must provide a framework within which the unit discharges its Supervisory Care responsibilities and must demonstrate and clearly articulate the CO's commitment to the care of the trainees. The care regime must establish appropriate levels of supervision and welfare cover at all times, not only during training, but also out-of-hours, holdovers, at weekends and during leave or stand-down periods. It must include or refer to appropriate procedures, processes and policies to ensure compliance with higher level requirements, and consistency/coherence with other Unit/Command/Service/Defence activities as appropriate. The minimum acceptable levels of supervision determined from the CRA must be clearly articulated against relevant serials during the working day, out-of-hours, weekends and leave periods. If, due to unforeseen and unavoidable circumstances, the requisite levels of supervision cannot be maintained, suitable mitigating measures are to be identified and implemented.

9. Of particular importance is the need for COs to have systems in place to identify and protect those recruits or trainees who are particularly vulnerable to harassment, bullying or discrimination; those who have personal, educational or welfare problems that could affect their performance or health; and those potentially at risk of self-harm or suicide. Such individuals must be monitored using an 'At Risk Register' and clear direction on the actions to be taken must be given both to the permanent staff (military and civilian) and to the recruits/trainees within the establishment. 'At Risk Registers' should provide a formal record of individual recruit or trainee issues, whether personal or professional, and the actions taken, and by whom, to

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<sup>7</sup> JSP 375: MOD Health and Safety Handbook.

support the individual. Registers should be routinely updated, and within appropriate boundaries of confidentiality and detail, be accessible to the individual's Chain of Command.

10. Given the central role played by the welfare and medical staff, the Supervisory Care Directive must include details of the unit's welfare structure and its governance. As a minimum, this must include an outline of the various welfare fora, their interrelationship, membership, frequency of meetings, passage of information and confidentiality protocols. Each welfare forum must be provided with simple Terms of Reference which should be included as Annexes in the Supervisory Care Directive. Formal linkages between welfare fora and training/trainee performance mechanisms should also be considered, given that welfare issues and poor training performance are often interlinked. Recruits and trainees must be able to use the welfare and support facilities on a 'drop in' basis without hindrance once they have completed their daily duties. When individuals deemed 'At Risk' pass from one training establishment to another (particularly, from Phase 1 to Phase 2) and from training to operational units, a suitable method of informing the gaining unit of any concerns must be established, so that the gaining unit can ensure that appropriate supervision is maintained. Factors for consideration in developing a Supervisory Care Directive are at Annex B. Supporting definitions are at Annex C.

## Training

11. Ensuring that staff are properly trained is central to establishing effective Supervisory Care. COs of Phase 1, 2 and 3 training establishments (OF4 to OF6/1\*), must attend the Defence Course for Commanding Officers of Training Establishments at the Defence Centre of Training Support (DCTS)<sup>8</sup> prior to assuming Command.<sup>9</sup> The course provides up to date Command level preparation to understand the complexities of the modern initial training environment, including: their part in the assurance process, Supervisory Care and the Continuous Improvement<sup>10</sup> agenda to improve the learning experience and addresses the challenges specific to commanding a training establishment. The Defence Train the Trainer Course (DTTTv2), delivered by DCTS (and its franchises across Defence), is the minimum training qualification expected of any trainer in the Initial training environment. Supervisory staff fulfilling care and welfare roles must also attend the Care of Trainees Course (held at either DCTS or within the training establishment).

## Governance

12. **Policy sponsorship.** The sponsor branch is TESRR. Governance is exercised through sS 2<sup>nd</sup> party assurance, on behalf of the TESRR Policy Assurance Group (TESRRPAG).

13. **Role of the training commands.** Training commands are to maintain oversight of their subordinate training establishment Supervisory Care Directives in order to ensure consistency and to identify good/best practice and hence inform annual policy revision.

Annexes:

- A. Risk Assessment – Factors for Consideration.
- B. The Supervisory Care Directive – Factors for Consideration.
- C. Supervisory Care Directive – Supporting Definitions.

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<sup>8</sup> Based at RAF Halton, forms part of DefAc, which lies within JFC.

<sup>9</sup> Or as soon as practicable on arrival in the assignment.

<sup>10</sup> Continuous improvement (including self assessment) in initial training establishments to ensure the Department moves enduringly 'beyond DHALI/B.'

## **Annex A to Pt 1, 1.1: Risk Assessment - Factors for Consideration**

These factors are not exhaustive and additional factors, as deemed appropriate by COs, are to be considered.<sup>1</sup> The assessment framework must identify and explain factors, associated risks (their frequency and likelihood) and their mitigation measures/precautions.

### **A potentially Low Risk environment:**

- A stable and/or homogeneous trainee population.
- A high level of training and experience already acquired by recruits/trainees.
- A well bonded cohort of recruits/trainees.
- A low proportion of recruits/trainees on holdover/awaiting training or discharge.
- A high average age of recruits/trainees.
- A high educational attainment among recruits/trainees.
- Good availability and close proximity of recreational facilities (e.g. gyms, and games rooms where alcohol is not served).
- Good availability of non-uniformed welfare staff (SSAFA, RVS etc).
- Low turnover of training staff.
- Few or no gapped training (and appropriate support) posts.
- Staff who have completed mandatory training as appropriate.

### **A potentially High Risk environment:**

- Evidence or history of bullying/harassment within the establishment.
- A fluctuating and/or diverse recruit/trainee population and typology.
- A low level of training and experience of recruits/trainees.
- A lack of bonding within recruit/trainee cohorts.
- A high proportion of recruits/trainees on holdover/awaiting training or discharge.
- A low educational attainment / low academic level among recruits/trainees.
- Mixed gender training and the mixing of trained and untrained personnel.
- A lack of available or proximate recreational facilities (other than bars etc).
- A lack of welfare support.
- High turnover of training staff.
- A significant number of gapped training (and appropriate support) posts.
- Staff who have not completed mandatory training as appropriate.

### **Factors to determine the level of supervisory care during Out-of-Hours Periods:**

- Available direction/guidance on alcohol consumption.
- The proximity of the duty supervisor (e.g. living in the same block, on the base, or outside the establishment on a mobile phone).
- Weekends and leave policy, which may increase or reduce the requirement for supervisory staff.
- The unit's guard structure and duties, which may allow staff are on guard duty to take on limited supervisory activities.
- The geographical location of the unit, which may affect the number of recruits/trainees likely to be within the bounds of the establishment during out-of-hours periods, increasing or decreasing the requirement for supervisory staff.
- The nature and distribution of the accommodation (e.g. single, multi, or barrack style, the standard of furnishing).
- The balance of male/female recruits/trainees within the unit, noting the need for a suitable number of male/female supervisory staff at any time.

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<sup>1</sup> Additional factors, if identified, should be passed to TESRR in order to share good practice across Defence.

- The ease of contact with families and friends (e.g. mobile phone policy, telephone availability and internet access).
- The 48-hour limit on weekly working time in the Working Time Regulations, which may restrict the use of trainers for out-of-hours supervision.<sup>2</sup>

**Specific factors for consideration:**

- Self-harm and suicide.
- Alcohol and drug abuse or addiction.
- Bullying, harassment, inappropriate behaviour.
- Homesickness.
- Access to telephones / use of mobile phones.
- Compassionate leave.
- Engagement with parents/guardians.
- Recruits/trainees on holdover/awaiting training or discharge. To include procedures for informing them of progress.
- Financial awareness.
- Basic skills.
- Inculcation of core values.
- Access to weapons and ammunition.
- Recruits/trainees U18.
- Mental health and other medical problems.
- Recreational facilities including access to alcohol and gambling.
- Bounds (restrictions on recruits/trainees).
- Tracking vulnerable individuals – ‘At Risk Register.’

**Current good practice:**

- CO’s personal involvement.
- Analysis of recruit/trainee population:
  - Where are they from (e.g. urban, rural, overseas, ethnic or national origin, social background, educational attainment)?
  - What types of issues do they bring?
- Analysis of historical and welfare data:
  - Types of problem, patterns and how previously resolved.
  - Likelihood and frequency.
- Analysis of training activities:
  - What are the risks, both psychological and physical?
  - Maintain and exploit historical medical data on causes of injuries.
- Refresh regularly (at least annually).
- Include personnel and admin staff, welfare staff and trainers in the process:
  - Helps to identify sensible mitigation measures/precautions.
  - Improves buy-in and ownership throughout unit.
- Include all activities on and off site, where appropriate.
- Development of unit historical data/perspective:
  - History of self-harming incidents.
  - History of Minor Administrative Action.
  - The Remedial Training log.
  - The Equality and Diversity Log.
  - Injury Log.

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<sup>2</sup> The MOD has limited derogations from the Working Time Regulations in some instances. Legal advice should be sought on whether a particular activity is exempt. Guidance on Working Time Regulations for SP is provided in 2008DIN01-050.

## **Annex B to Pt 1, 1.1: The Supervisory Care Directive - Factors<sup>1</sup> for Consideration**

### **Arrival and induction procedures:<sup>2</sup>**

- New recruits/trainees to be met on arrival and escorted to accommodation.
- Process in place for early arrivals and courses commencing after leave periods.
- Induction briefing to include, as a minimum, and at an appropriate level:
  - Explanation of the Supervisory Care Regime, to both staff and recruits/trainees.
  - The need for all staff and recruits/trainees to be aware of 'At Risk' behaviour and the mechanism for reporting such behaviour.
  - The need to retain a close dialogue between the Chain of Command, medical, welfare and pastoral staff on 'At Risk' individuals and supervisory care issues in general.
  - For civilian medical staff in particular, the implications of working in a military environment and the sensitive boundaries between patient confidentiality and justifiable Service concerns.
  - Explanation of the provisions of the 'training covenant'<sup>3</sup> to all staff and recruits/trainees.
  - Issue the Training Covenant Card to every recruit/trainee. Card must include key names and contact details of those responsible for supervisory care (both inside and outside the Chain of Command) and welfare support, together with any relevant national helpline details.
  - How recruits/trainees may raise training or other personal concerns.
  - Procedure for nominating NoK, including the requirement to address potentially complex family arrangements.
  - Unacceptable behaviour, and the complaints process (both informal and formal).

### **Monitoring of recruits/trainees:**

- Systems in place to ensure that the movements of all recruits/trainees can be accounted for at all times (including weekends, off duty or leave). Such systems will depend upon the nature and phase of training and should not infringe on trainees' freedom of movement.
- Delegation of authority to NCOs should not take place without appropriate and responsible officers maintaining proper oversight and accountability.
- Appropriate levels of supervision and welfare cover, as a ratio between supervisory staff and recruits/trainees, determined based upon the outcomes of the Risk Assessment and the processes training design as laid out in JSP 822.<sup>4</sup>

### **Maintenance of discipline/Service standards:**

- Maintain good order and discipline in accommodation, communal, instructional and recreational areas.
- Ensure appropriate regime is in place to manage poor performance.

### **Training and supervisory staff:**

- Ensure that the need for DBS checks has been correctly identified.
- Monitor the completion of DBS checks for all relevant personnel.

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<sup>1</sup> These factors should be considered in conjunction with the Care of Service Personnel Under the Age of 18 contained within this JSP.

<sup>2</sup> COs should implement appropriate follow-up sessions to ensure a thorough understanding of supervisory care issues.

<sup>3</sup> For example, the ARTD Code of Conduct and Behaviour for Recruits.

<sup>4</sup> JSP 822: Governance and Management of Defence Individual Training and Education.

- Ensure that staff are adequately trained, assessed and monitored in the training and, where appropriate, supervisory care of trainees.<sup>5</sup>
- Ensure sufficient, qualified staff are available, commensurate with the activity risk, in accordance with Risk Assessments and Training Documentation.
- Ensure that appropriately trained personnel (e.g. Chaplains/Padres, medical staff) are available to assist any trainee in need of counselling.
- Allow recruits/trainees to have access to a supervisor of their own sex.
- Ensure these tasks are maintained whilst recruits/trainees are training away from the unit, such as during AT.
- Consider the fitness of staff to provide appropriate supervisory care if they are also under other pressures (workload, domestic etc).

#### **Specific factors for consideration:**

- Self-harm and suicide.
- Alcohol and drug abuse or addiction.
- Bullying, harassment, inappropriate behaviour.
- Homesickness.
- Access to telephones / use of mobile phones.
- Compassionate leave.
- Engagement with parents/guardians.
- Recruits/trainees on holdover/awaiting training or discharge. To include procedures for informing them of progress.
- Financial awareness.
- Basic skills.
- Inculcation of core values.
- Access to weapons and ammunition.
- Recruits/trainees U18.
- Mental health and other medical problems.
- Recreational facilities including access to alcohol and gambling.
- Bounds (restrictions on recruits/trainees).
- Tracking vulnerable individuals – ‘At Risk Register.’

#### **Current good practice:**

- Write as a Directive.
- Avoid being descriptive.
- Specify:
  - What is to happen, when and how.
  - Set standards to be achieved.
  - Identify who is to do what.
  - Outline the organisations’ welfare structure.
- Keep it short – do not replicate Standing Orders.
- Consider pocket Aide Memoire for trainers.
- Have an effective feedback loop.
- Consider the use of table-top exercises to validate procedures.
- Conduct post-incident analysis.
- Review regularly.

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<sup>5</sup> In particular, ensure that the requirements of the Defence Direction for staff delivering formal training are met (JSP 822 Pt 3, Ch 4).



## **Framework<sup>1</sup> for Supervisory Care Directive**

Whilst not prescribing a standard format as factors differ between establishments, the following format is considered good practice. Where extant direction/guidelines cover an issue raised in the Supervisory Care Directive, it is to be referenced for detailed direction.

### **Introduction**

- Statement of CO's commitment to the care of the recruits/trainees within his/her establishment.
- Reference to relevant procedures, processes and policies.
- Applicability of Supervisory Care Directive.
- Governance of Welfare forums.

### **Outline of course(s)**

- Emphasise those elements that may put particular pressure on recruits/trainees.

### **Arrival**

- Procedures.
- Induction briefing.
- Initial letter to parents/guardian.

### **Accommodation**

- Recruits/trainees.
- Supervisors.

### **Conduct of training**

- Training failures.
- Management of poor performance.
- End of course reports.
- Basic skills deficiencies.

### **Staff training and validation**

- Mandatory training.
- Optional training.
- Trainer validation.

### **Supervisory care of recruits/trainees**

- The minimum ratio of supervisory staff to recruits/trainees against all serials during normal working hours and out of hours, at weekends and during leave periods, and the risk mitigation strategy if these ratios cannot be met.
- Normal working hours.
- Out-of-hours, including checking of recruits/trainees during silent hours.
- Access to support – welfare/medical/chaplain etc.
- Booking in/out procedures.
- Incidents involving recruits/trainees.
- Weekends and leave policy, including restrictions on night leave.
- Mealtimes, including fourth meal where applicable.
- Monitor recruits/trainees' adherence to a balanced, nutritional, diet.
- Specific exercises/activities.

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<sup>1</sup> Variations to this framework should be considered by the relevant training command and passed to TESRR if considered good practice.

## Annex C to Pt 1, 1.1: Supervisory Care Directive – Supporting Definitions

**Care and welfare:** MOD's legal and moral obligation to care for the wellbeing of recruits/trainees.

**Training:** Formal training derived from the design process within the DSAT QS<sup>1</sup> and delivered by an appropriately trained trainer or training medium. This includes exercises that continue outside normal working hours.

**Trainer:** The term 'trainer' refers to any person (military, civilian or contractor) engaged in regularly teaching, tutoring, training, mentoring, coaching, facilitating the learning of or instructing recruits/trainees/students in a formal setting for more than 5 hours per week.

**Initial Training:** Training delivered at Phase 1 and Phase 2.

**Supervisory care:** The expression used to define the moral component of the MOD's care and welfare. It involves the conscious overseeing of recruits/trainees by an authorised person to ensure the delivery of an appropriate military, pastoral and welfare regime. Supervisory care goes beyond the delivery of military, technical or specialist training and/or education carried out during the normal working day. It includes aspects such as the inculcation of professional military ethos, the maintenance of values and standards, ensuring appropriate behaviour, providing assistance or advice on welfare and administration, and the mentoring of recruits/trainees by military or suitable civilian staff.

**Supervisor:** A member of staff specifically authorised and responsible for the supervisory care of recruits/trainees. COs may nominate and authorise supervisors from all permanent staff (both military and civilian) on the strength of the establishment, as deemed suitable. This would normally exclude Military Provost Guard Service/MOD Guard Service staff and MOD Police unless specifically required.<sup>2</sup> Military duty staff on the establishment during out-of-hours periods may be expected to carry out supervisory care responsibilities, subject to compliance with the Working Time Regulations, where applicable.

**Normal working hours:** Typically 0800 to 1800 hours during which time recruits/trainees are undergoing formal periods of instruction (Class Contact Time), organised sporting or other activities. This period would include the time for lunch and any other short breaks between instructional periods. For the majority of this time recruits/trainees will usually be under the control and supervision of trainers.

**Out-of-hours (off duty):** The time spent outside Normal Working or Silent Hours; typically:

Monday to Friday

0630-0800 - the time between Reveille/Call the Hands and First Parade/Turn to.  
1800-2300 - the time after periods of formal training and Silent Hours/Lights Out.

Saturday and Sunday

0630-2300 - in the event of no formal training/instruction taking place.

**Out-of-hours (silent hours):** The time when recruits/trainees are expected to be asleep; typically 2300-0630 hours.

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<sup>1</sup> JSP 822: Governance and Management of Defence Individual Training and Education.

<sup>2</sup> For example when recruits/trainees are detailed for Guard Duty/Fire Piquet under the supervision of MPGS, MGS or MOD Police, but noting the requirements of the extant Direction on Armed Guarding of Phase 1 and 2 Establishments.

## 1.2 Care of Service Personnel Under the Age of 18

### Policy Sponsor: CDP DCL<sup>1</sup>

This Guidance sets out policy to assist Commanding Officers (COs) meet their obligations in respect of the management, care and welfare of Service personnel under 18 years of age, although much could also apply to older Service personnel. COs take their responsibilities towards their people extremely seriously, and are very well aware of the particular welfare needs of Service personnel, including recruits and trainees.<sup>2</sup> However, there are additional legal requirements associated with Service personnel aged under 18 and, whilst maturity and experience vary considerably between individuals it is clear that under 18s (U18s) may be more vulnerable than those older. The Armed Forces Covenant makes clear that special account must be taken of the needs of those under 18 years of age. COs will wish to pay close attention to the needs of U18s as they pass from recruitment through Phase 1 and Phase 2 training, to operational units. In addition, though this would not generally be relevant to those under training, restrictions are applied to the deployment of U18s, in accordance with the UK's obligations under the UN Convention on the Rights of the Child.

Whilst embracing fully our duty of care responsibilities it is imperative to avoid isolating U18s by treating them in an inequitable way. They are, and must continue to feel, an integral part of the Services, and full members of the team whose contribution is valued. COs are best placed to ensure that this delicate balance is maintained. COs should ensure that this Guidance is followed out by those under command, and that the latter are aware of their responsibilities under it.

### The law

1. COs are responsible for the care of all Service personnel under their command, and are accountable accordingly. A 'duty of care' is the obligation to exercise such a degree of care towards an individual, as is reasonable in all the circumstances, to ensure their wellbeing and that of their property. Breach of the duty of care will give rise to legal liability for loss or damage suffered in consequence. Duty of care also includes statutory duties as set out at Section 2 of the Health and Safety at Work Act 1974, which states that it is the duty of *"every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees."*
2. Our 'duty of care' responsibilities arise from the employment of individuals, including those U18, not from acting *in loco parentis* to those within the 16-18 age group. A CO does not have the rights and obligations imposed on a parent or guardian (such as a local authority looking after a child in care) in respect of a Service person who is U18.
3. All those in a position of authority owe a duty of care to those under their command, including Service personnel U18. It is the CO's responsibility to bring to the attention of those beneath them in the chain of command all policies and procedures, including those contained in this document, which are relevant to the discharge of that duty.
4. The age of the Service person, the all-encompassing nature of Service life (in particular, initial training), and other factors particular to the individual such as their maturity and intelligence are relevant to the degree of care required to meet the duty of care. Although the Services are not *in loco parentis*, the care and welfare of U18s requires particular attention. COs must be fully aware of this need.
5. Under the provisions of the Children Act 2004 structures have been put in place to ensure the wellbeing of children and young people. This includes the establishment of a Children's Commissioner, with a remit independent of Government, to look at all issues concerning those U18. The powers of the Children's Commissioner include the right of access to any premises in order to

<sup>1</sup> Chief Defence Personnel, Defence Personnel Secretariat, Discipline, Conduct & Legislation team.

<sup>2</sup> The terms Recruit(s) and Trainee(s) are used throughout this document to describe Service personnel undergoing Phase 1 and Phase 2 training respectively.

interview a child or young person and a right to review the circumstances of children and young people, including any individual cases. Given the unusual nature of service in the Armed Forces (including such things as frequent moves and security), the MOD has agreed a protocol with the office of the Children's Commissioner. In particular, this focuses all initial contact for any such cases through the MOD Directorate Children and Young People (DCYP), which will facilitate any contact or requirement for cooperation.

6. There will be those U18 who join the Armed Forces who are care leavers subject to the provisions of the Children (Leaving Care) Act 2000. This seeks to ensure that young people aged 16-21 years, or older if in an agreed training or education programme, who have for a significant period been looked after by a local authority, continue to receive advice, support and befriending for a period of time after they cease to be formally looked after full time by that local authority. U18s who are care leavers may not have the family support that others enjoy and this may make them more vulnerable. Seeking advice from the single Service welfare services, if required, COs should ensure that where they are informed that an U18 is also a care leaver, they:

- a. Offer the support of the single Service welfare services who may also liaise with the appropriate local authority on their behalf if necessary;
- b. Ensure that care leavers, if they request it, are given access to the responsible local authority services to which they are entitled. As far as possible, the care leaver should not be disadvantaged by the inevitable moves that they will experience as a member of the Armed Forces; and,
- c. Recognise a local authority's statutory responsibility to 'take reasonable steps' to keep in touch, or to re-establish contact if lost, with their care leavers (up to the age of 21), and are to effect a mail forwarding system for correspondence from a local authority to the individual concerned. They are also to encourage care leavers to maintain contact with their responsible local authority.

## **Smoking**

16. It is illegal to sell tobacco products to anyone under the age of 18. This includes cigarettes, cigars, loose rolling tobacco and rolling papers and applies both to over the counter and vending machine sales. COs are to ensure that notices stating, "*It is illegal to sell tobacco products to anyone under the age of 18,*" are displayed at all premises at which tobacco is sold within the unit. A notice displaying the following statement, "*This machine is only for the use of people aged 18 or over,*" should be displayed on every tobacco vending machine within the unit.

## **Gambling**

17. U18s are prohibited by law from playing gaming machines, which are classified as those machines which are games of chance with prizes, for example, 'fruit machines.'

## **Adventurous Training**

18. COs must ensure that additional supervision is provided to U18s during Adventurous Training (AT) (and Resource and Initiative Training) if needed. In training establishments the CO should undertake a Risk Assessment in accordance with the Supervisory Care Policy.<sup>5</sup> U18s undergoing AT will be away from their normal environment and therefore COs need to pay particular attention to their needs. Such rules and regulations that normally apply to U18s must continue to be applied.

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<sup>3</sup> The duties for raising the participation age are set out in the Education and Skills Act 2008.

<sup>5</sup> Supervisory Care for Phase 1 Recruits and Phase 2 Trainees contained within this JSP

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## Health and safety at work

19. COs must ensure that U18s are included in standard Health and Safety at Work Risk Assessments and must take particular account of risks applying to them. The Management of Health and Safety at Work Regulations 1999 places additional duties on an employer to ensure that young persons (defined as any person who has not yet attained the age of 18, but above school leaving age) are protected at work from, *“any risks to their health and safety, which are a consequence of their lack of experience, or absence of awareness of existing or potential risks or that young persons have not yet fully matured.”* COs may wish to consider the creation and maintenance of a register of U18s to assist in this regard. It may be that Health and Safety matters are included in a multi-purpose register of U18s.

## Vulnerable recruits or trainees

22. In accordance with the Supervisory Care Policy for Defence Individual Training Establishments,<sup>8</sup> the CO of a training establishment is to publish a Supervisory Care Directive which is to be reviewed annually. This is underpinned by the CO's Risk Assessment. Of particular importance is the need for COs to have systems in place to identify and protect those recruits or trainees who may be particularly vulnerable to harassment, bullying or discrimination; those who have personal or welfare problems that could affect their performance or health; and those potentially at risk of self harm or suicide.<sup>9</sup> Such individuals should be identified and monitored using an 'At-Risk Register' system and clear directions on what actions must be taken following the identification of these individuals must be given to both (military and civilian) staff and recruits/trainees within the establishment. When individuals identified as being at risk pass from one training establishment to another (for example from Phase 1 to Phase 2) and from training to operational units, a suitable method of informing the gaining unit of any concerns relating to an individual must be established, so that the gaining unit can ensure that the level of supervisory care is maintained.<sup>10</sup> If U18s are required to operate outside a training establishment, COs should be aware of their potential vulnerability and that systems for the identification and protection of vulnerable recruits are in place.

## Levels of supervision in the training environment

23. Single Services must ensure that the relevant suitability checks<sup>11</sup> have been conducted for staff selected to work in the training environment, in order to prevent those deemed to be unsuitable to work with U18s from being appointed.<sup>12</sup> COs may seek advice from the relevant manning branch to satisfy themselves that this is the case.

24. The minimum acceptable levels of supervision (the number of supervisors to the number of recruits and trainees in their charge), determined from the CO's Risk Assessment, must be clearly articulated in the Supervisory Care Directive, having taken into account relevant serials during the working day, out-of-hours, weekend and leave periods. COs should pay particular attention to the supervision of U18s to ensure that supervision levels are set at an appropriate level, particularly during out-of-hours periods and at weekends.

<sup>8</sup> Supervisory Care Policy for Phase 1 Recruits and Phase 2 Trainees contained within this JSP.

<sup>9</sup> Guidance on self-harm and suicide is available for the RN in BR3 Part 5 Annex 24E; for the Army in AGAI Vol 3, Ch 110; and for the RAF in AP 9012 Ch 6.

<sup>10</sup> All RN Personnel are to be transferred to new units in accordance with BR3 para 5752.

<sup>11</sup> Such as Disclosure and Barring Service checks (previously Criminal Records Bureau (CRB) checks) and their equivalents in Scotland and Northern Ireland.

<sup>12</sup> JSP 893: Policy on Safeguarding Vulnerable Groups, Annex B refers – Version 4, Aug 2012.

## The right to leave the Armed Forces for U18s

25. All Service personnel U18 have a statutory right to discharge:

- a. **Discharge as of Right (DAOR) as a new recruit.** All new recruits,<sup>13</sup> who have completed 28 days' service and having given 14 days notice, have a right to discharge within the first 6 months of service.<sup>14</sup>
- b. **Discharge U18 (DU18).** After the first 6 months of service, all Service personnel U18 retain a right to claim discharge up to their 18<sup>th</sup> birthday. The terms of this discharge include a cooling-off period and are therefore different to those for DAOR. Service personnel U18 who, after 6 months service, wish to leave their Service must give notice in writing and before their 18<sup>th</sup> birthday to their CO. U18s will not be discharged until the end of a cooling-off period.<sup>15</sup> The maximum cooling-off period will be 3 months. This may be reduced but only if both the CO and the U18 agree to a shorter cooling-off period. Once an U18 has submitted an application to leave, the longest period that an individual will be required to continue to serve is 3 months. The cooling-off period provides the safeguard of a period for reflection in which the U18 may rescind a hasty and subsequently regretted decision. An U18 who has notified their CO of their intention to leave will not be discharged if they change their mind about leaving before the date of their discharge.<sup>16</sup> The U18 should normally notify their CO of their wish to change their mind by submitting a withdrawal of notice; the U18 must then be allowed to remain in Service. COs retain the power to discharge a Service person regardless of age for other reasons but they should generally not consider individuals unsuitable because they have previously exercised the right both to apply for discharge and to remove that notice. COs are to ensure that all Service personnel U18 are made aware of their right to discharge.

26. A Service person over the age of 18 may, in very limited circumstances, also have a right to discharge. This will occur only where the Service person:

- a. Notifies their CO of their wish to leave before their 18<sup>th</sup> birthday; and
- b. Their 18<sup>th</sup> birthday falls before the end of the 3 months maximum cooling-off period.

In these circumstances (unless they change their mind) the Service person will be discharged at the end of the cooling-off period.<sup>17</sup>

<sup>13</sup> By which is meant those on their first enlistment to a particular Service. However, the right will be extended to individuals who have been discharged on medical grounds and subsequently re-enter.

<sup>14</sup> New recruits who are 18 and over also have a right to discharge. For those in the Army, the right must be exercised within their first 3 months. For recruits in the Royal Navy, the Royal Marines and the Royal Air Force, their right must be exercised (like those under 18 years) within the first 6 months.

<sup>15</sup> A Service person will not be discharged, if during the cooling-off period, they change their mind about leaving. Additionally, discharge may be delayed beyond what would be the end of the cooling-off period if at the time the Service person is serving a sentence of Service detention. Where this occurs the date of discharge will be postponed until the Service person is released from MCTC.

<sup>16</sup> There is no limit on the number of times a Service person may give notice to the CO before reaching the age of 18.

<sup>17</sup> A Service person serving a sentence of Service detention will not be discharged until their release from MCTC.

27. Regardless of the means of discharge of an U18, COs are to ensure that:

a. The U18 has contacted their parent(s)/guardian(s) and will return to them, or has their permission to return to a different address. If the parent(s)/guardian(s) will not accept the U18 back into the home, or the U18 does not wish to return, then the CO<sup>18</sup> should liaise with the social and welfare services if appropriate;

b. Where the U18 was in local authority care before joining the Armed Forces (such as a care leaver) they are unlikely to have had the family support that others enjoy and this may make them more vulnerable. As a consequence, care leavers represent a 'special group with specific needs' and extra sensitivity is required. The relevant local authority is to be contacted and appropriate arrangements made for the return of the U18 to their care. Where necessary, assistance should be requested from the single Service welfare services that could assist with contacting the local authority;

c. The U18 has been provided with a rail warrant, departure times of trains that will allow return home by 2359hrs, and provided with transport (or fare) to the nearest railway station. If arrival by 2359hrs on the day of departure is not possible the U18 should be provided with overnight accommodation at the parent unit;

d. The U18 has sufficient funds for incidental expenses. This could be funded through an Early Payment in Cash and repaid from their final salary;

e. The parent(s)/guardian(s) have been contacted and provided with arrival details. The discharging unit should contact the arrival address the following day to ensure the individual has arrived. If he or she has not arrived any follow-up action should be agreed with the parent(s)/guardian(s).

## **Welfare, mentoring and interviewing**

29. Welfare is a function of command and its provision is articulated within JSP 770.<sup>19</sup> There is a comprehensive welfare system at a commander's disposal, which includes Unit Welfare Officers, chaplains, Service welfare organisations, WRVS and sometimes elements of the Council of Voluntary Welfare Workers (CVWW).<sup>20</sup> Service personnel also have access to SSAFA Forcesline.<sup>21</sup> Whilst the chain of command is usually the initial point of contact for an individual with welfare concerns, all Service personnel, including U18s, should be made aware that they have the freedom to approach any welfare agency directly if, for any reason, they do not wish to approach the chain of command. COs should seek advice from the single Service welfare services, as appropriate, in dealing with the specific welfare concerns of those under their command.

<sup>18</sup> In cases where a Service person will be over 18 at time of discharge and therefore classed as an adult, the CO will need to determine whether contact with parents/guardian or local authority is deemed appropriate; this will depend on the assessed vulnerability of the individual.

<sup>19</sup> JSP 770: Tri-Service Operational and Non Operational Welfare Policy.

<sup>20</sup> CVWW includes Church Army (CA), Church of England Soldiers, Sailors & Airmen's Clubs (CESSAC), Dame Agnes Weston's Royal Sailors' Rest (Aggie Weston's), Methodist Force Board (MFB), The Mission to Military Garrisons (MMG), Salvation Army, Sandes Soldiers' & Airmen's Clubs and Soldiers' & Airmen's Scripture Readers Association (SASRA) & Miss Daniell's Soldiers' Homes (MDSH).

<sup>21</sup> Forcesline provides a confidential service in support of Service personnel and their families. Forcesline can be reached by telephone from anywhere in the world Monday to Friday and most Bank Holidays, from 1030 to 1930hrs UK local time using the following numbers: From UK 0800 731 4880, From Germany 0800 1827 395, From Cyprus 080 91065, From Falklands #6111, Rest of World +44(0) 1980 630854 (Staff can call back if asked), Operational Theatre, to enable access through Paradigm, dial appropriate access code then \*201 at PIN prompt.

30. Units that have instituted a mentoring regime for new arrivals have reported considerable benefits, including happier and more effective U18s as well as improved retention. COs should consider the appointment of a suitably screened mentor for each U18 (of the same sex where possible). Suitable mentors may be SNCOs or suitably selected senior Other Ranks/junior Corporals or equivalent. Mentors should not normally be an U18's direct supervisor, though all Mentors would have the support of the chain of command and be able to draw on other resources, such as Padres. Mentors should meet their charges individually each fortnight where possible and practicable, to conduct an interview covering:

- a. Work related issues, including relationships within the chain of command (an essential part of the new arrival's education and induction into the team);
- b. Bullying and harassment;<sup>22</sup>
- c. Homesickness;
- d. Hygiene;
- e. Finance;
- f. Any other concerns or problems.

#### **Contact with parents – routine matters**

31. Appropriate contact with the parent(s)/guardian(s) of U18s is strongly encouraged (this includes any person who has a parental responsibility order under Section 8 of the Children's Act 1989). However, an U18 has a right to respect for his or her private life in accordance with Article 8 of the European Convention on Human Rights (incorporated into UK domestic law by the Human Rights Act 1998). The Data Protection Act 1998 protects the personal data of a Service person and there must not be disclosure of such data to a third party without the consent of the individual concerned except in accordance with the Act. For example, a disclosure may be made if it is necessary to do so in the vital interests of the individual concerned and it cannot reasonably be expected to obtain the consent of that person.

32. COs should seek to establish and sustain links with the parent(s)/guardian(s) of those under initial training (Phase 1 and Phase 2). This can be achieved by writing to them on the arrival of an U18 giving details of how the unit can be contacted, providing details of the training to be undertaken, and encouragement for parent(s)/guardian(s) to contact the unit if they have any questions or concerns. This should be repeated at the commencement of Phase 2 training if the trainee is still U18. Visits by parents/guardians at appropriate times should also be encouraged. These can be of real value to the recruit, encourage a supportive family atmosphere and promote a better understanding of the Services.

33. Phase 1 training establishments should consider hosting a Parents Day within the first 6 weeks of training to assure parents/guardians that their children are being treated well and that, in general, they are content and adjusting to the significant change in their life. If the guardian of an U18 is the Social Services, but the U18 has been in the long term care of foster parents or become very close to their foster family then, for minor issues, COs should consider whether it is more appropriate to contact the foster family in the first instance. Any serious issues will need to be discussed with the local authority.

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<sup>22</sup> As defined in JSP 763: The MOD Bullying and Harassment Complaints Procedures.



34. The legal age of consent for medical, surgical and dental treatment is 16 (Section 8 Family Law Reform Act 1969). There is therefore no requirement to obtain parental consent for medical treatment of Service personnel over the age of 16. However, where high risk procedures or elective surgery is being considered, it is advisable to discuss this with the parents of the individual, unless that individual refuses permission for such discussion to occur.

### **Contact with parents – In the event of an U18 seeking to leave voluntarily**

35. In the event of an U18 seeking to leave voluntarily, the CO needs to establish if the U18 has discussed this with their parent(s)/guardian(s). Any decision to approach the parent(s)/guardian(s) of an U18 in these circumstances will be governed by the facts of each individual case. In determining whether to make an approach, an assessment of the situation of the parent(s)/guardian(s) and that of the U18 needs to be considered. What is the relationship between the U18 and their parent(s)/guardian(s)? Will they be receptive to an approach? Will the U18 consent to such an approach? Their personal circumstances should be respected and protected before an approach is made. The starting point should be that no approach should be made. In exceptional circumstances, if it is considered necessary in order to protect the health, safety and welfare of an U18 then their parent(s)/guardian(s) may be approached without consent from the U18. However, great care must be taken to avoid unnecessary disclosure of personal data or of any information received in confidence. A decision matrix is at Annex A. COs may discuss specific concerns with the parent(s)/guardian(s) with the agreement of the U18.

### **Discipline**

36. U18s are subject to the same disciplinary arrangements as over 18s.<sup>23</sup> However, COs should be aware and take account of U18s' relative immaturity and vulnerability, and offer additional support and advice if appropriate, both during the disciplinary process and beyond, to reduce the risk of re-offending. In the event that an U18 is arrested the CO must, without delay, refer the matter to the Service Police. The CO must also provide the arrested person with an appropriate adult, and consider whether an interpreter or help to check documentation is required. If an U18 is to be tried by court-martial, the CO should inform their parent(s)/guardian(s).

### **Other issues**

41. **Failure of Compulsory Drugs Test (CDT).** Where an U18 fails a CDT, the CO must consider whether retention is appropriate in accordance with Service regulations. If it is determined that an U18 is to be discharged, notification to the parent(s)/guardian(s) should be made in accordance with the right to leave the Armed Forces.

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<sup>23</sup> JSP 830 - Manual of Service Law, Vol 1 refer