



Defence  
Safety  
Authority

**DSA01.1**

**Defence Policy for  
Health, Safety and  
Environmental  
Protection**



# Foreword

Defence is bound by UK health, safety and environmental protection laws, which are appropriate and proportionate for managing risks in the workplace and this is the core of the Secretary of State's Policy Statement<sup>1</sup>. However, the span of Defence activities includes those that are inherently dangerous and where the well-ordered UK statutory health and safety regime is both inadequate and inappropriate. In these dynamic and challenging environments it is vital that military commanders are able to develop skills and expertise in managing significant safety risk during high fidelity and exacting military training, where personnel "train as they fight" to prevent risk being transferred to the operational domain.

The ability of DSA to provide effective oversight of and challenge to operational safety is contingent on TLBs and Defence Agencies recognising and discharging the expectations placed on them by the Secretary of State for complying with statutory health, safety and environmental protection requirements. This will allow me to assure the Defence Board of compliance with statutory and Defence requirements and a quantifiable degree of freedom from unacceptable risk of serious injury, damage to Defence assets and the environment.

Defence has a good safety record, with death rates comparable or below many parts of UK industry because of effective safety management. Nevertheless, we must not be complacent or risk averse but continue to do all that we can to prevent any death, but also any serious injury, damage to Defence assets and the environment, particularly where these are readily avoidable. The responsibilities for this are clear and are amplified within this document. In many cases, these responsibilities are shared across Defence but it is essential that each of us fully plays our part. If safety is to be an effective force enabler and not a drain on Defence, it must be proportional to the benefits of conducting activities but there will be circumstances where risks are necessarily high to allow effective military capability to be developed. The starting point is, of course, remaining compliant with statutory requirements, but, in doing so we must guard against complacency and risk aversion because of the corrosive effect on military preparedness.

This publication reflects the necessary emphasis for targeting scarce resources on areas of safety that have the greatest overall impact, both in safeguarding lives and contributing to a viable and effective Defence capability. It remains an amplification of the Secretary of State's requirements and importantly clarifies and reinforces where responsibilities lie. I strongly encourage leaders and personnel at all levels to use this document to ensure that they understand their roles and responsibilities as part of a strong and effective Defence safety culture.

R A Garwood  
Air Marshal  
Director General, Defence Safety Authority

---

<sup>1</sup> Health, Safety and Environmental Protection in Defence: A Statement by the Secretary of State

**Deliberately left blank**

# Preface

1. DSA01.1 replaces JSP 815. Accordingly, JSP 815 should no longer be used. All references to it in all other documentation should be deleted. Any printed versions of DSA01.1 should be regarded as uncontrolled copies.
2. DSA01.1 is the amplification of the Secretary of State's Policy Statement for Health, Safety and Environmental Protection (HS&EP). Its purpose is to articulate the Secretary of State's requirements. It is supported by companion documents in the DSA01 series:
  - a. DSA01.2: Implementation of Defence Policy for Health, Safety and Environmental Protection;
  - b. DSA01.3: DSA Regulatory Practices, Processes and Operating Procedures;
  - c. DSA01.4: Glossary of terms and definitions for Defence Health, Safety and Environmental Protection.
3. The DSA01 suite of documents is published by the Defence Safety Authority (DSA) on the authority of the Director General DSA (DG DSA), in accordance with the Charter granted by the Secretary of State for Defence.
4. Where applicable, this document contains reference to other relevant publications, some of which may be published by different Defence Authorities. Where particular dependencies exist, these other Defence Authorities have been consulted in the formulation of the policy and guidance detailed in this publication. Importantly, DSA01.1 must be read in conjunction with the Secretary of State's Policy Statement and DSA's Charter (available on the DSA web page).
5. The document is hyperlinked to allow ease of navigation within the document. However, it does not contain links to external references and accordingly is written to be, so far as is possible, "self-contained".
6. DSA01.1 is published by DSA on the Defence Authority's webpage. For further information on any aspect of this document or to provide feedback on the content, contact: DSA-HQ-GroupMailbox (MULTIUSER) [DSA-HQ-GroupMailbox@mod.uk](mailto:DSA-HQ-GroupMailbox@mod.uk)

## Record of Changes

Serial	Amendments	Date
Initial Issue	Replacement of JSP 815 by DSA01.1	Aug 16

## **Disclaimer**

1. DSA01.1 does not remove or change the requirement on anyone to comply with UK health, safety and environmental protection legislation, the Secretary of State's Policy Statement on Health, Safety and Environmental Protection (HS&EP) or Defence Regulations.

2. Use of the terms 'chairman' and 'he' throughout the text has been adopted purely to aid clarity and consistency and should not be construed as deviating from the Department's diversity and inclusion policy.

# Contents

	Pg
Foreword	ii
Preface	iv
Contents	vi
Chapter 1: <b>Policy Statement</b>	1
Chapter 2: <b>The Legislative Framework and Departmental Policy</b>	3
Legislation	
Defence Policy and Regulations	
Visiting Forces	
Chapter 3: <b>Responsibilities for Health, Safety and Environmental Protection in Defence Activities</b>	5
The Secretary of State for Defence	
The Permanent Under Secretary	
The Director General, Defence Safety Authority	
Defence Authority	
DSA Publications	
TLB Holders and Chief Executives	
Chief Environment and Safety Officers	
Organisation and Arrangements	
Safety Management Systems	
Safety Culture	
Line Managers, Commanding Officers and Heads of Establishment	
Duty Holder	
Duty Holder-Facing Organisations	
Defence Contractors	
Employees	
Notification and Reporting of HS&EP events	
Chapter 4: <b>Risk Management</b>	15
Requirement	
Risk Assessments	
Safety Cases	
Assessment of environmental risk	
Organisational Safety Assessment	
ALARP	
Tolerability of Risk	
Chapter 5: <b>Checking and Performance Reporting</b>	19
Requirement	
HS&EP Baseline	
Auditing	
Performance Reporting	

Chapter 6:	<b>Competence, information and training</b>	23
	Requirement	
	Competence	
	Information	
	Training	
	Duty Holder Training	
Chapter 7:	<b>Regulation, Assurance and Enforcement</b>	25
	Requirement	
	Statutory Regulator	
	Defence Regulators	
	Regulation	
	Assurance	
	Enforcement	
	Overseas Authorities	



# Chapter 1

## Policy Statement

1. The Secretary of State's (SofS) Policy Statement for Health, Safety and Environmental Protection (HS&EP) applies to everyone and all organisations within Defence and who conduct activities on behalf of Defence, including contractors and MOD's partner organisations. It explicitly identifies Top Level Budget Holders (TLBHs) and Chief Executives (CEs) of both Defence Executive Agencies (DEAs) and the Defence Infrastructure Organisation (DIO) as having responsibilities for meeting this policy for Duty Holding, where appropriate, and compliance with the statutory requirements. In doing so, they are required to describe their management arrangements, including the delegations to those managing activities on their behalf and ensure that at every level, both military and civilian, are suitably and sufficiently trained and provided with relevant information and access to resources to ensure compliance with the Policy Statement.
2. The Policy Statement and the DSA Charter authorises the Director General, Defence Safety Authority (DG DSA) to:
  - a. Empower suitably qualified and experienced Crown servants to regulate HS&EP activity across Defence where it enjoys disapplications, exemptions or derogations from statutory requirements, where there is no statutory requirement or where assurance of specific hazardous activities is required;
  - b. provide independent investigation of accidents and be the primary Convening Authority (CA) for safety-related Service Inquires (SIs), and
  - c. be the Defence Authority for HS&EP.
3. DSA01.1 amplifies the Policy Statement and describes:
  - a. The HS&EP legislative framework that applies to Defence and how this is addressed by Defence policy;
  - b. the responsibilities for the management of HS&EP across Defence;
  - c. the requirements and arrangements for managing HS&EP risk in Defence;
  - d. the requirements for checking and reporting HS&EP performance;
  - e. the requirements for ensuring competence and providing information, training and instruction; and
  - f. the arrangements for regulation, assurance and enforcement of HS&EP in Defence activities.

5. A failure in HS&EP management has the potential to be detrimental to the health and safety of people, the environment, organisational reputation and ultimately the Department's operational capability. DSA01.1 describes the need for suitable and sufficient HS&EP management arrangements to prevent or minimise adverse work-related health and safety effects, impacts on the environment, organisational reputation and operational capability. The treatment and regulation of such risks are addressed by other DSA regulations and guidance.

## Chapter 2

### The Legislative Framework and Departmental Policy

1. **Legislation** SofS's Policy Statement reinforces the requirement for Defence to comply with UK HS&EP legislation, (which includes legislation giving effect to the UK's international obligations). However, as a Department of the Crown, Defence has immunity from prosecution and there are provisions that allow total disapplication, specific disapplication, exemption or derogation from legislation:

a. A non-application of legislation is where an entire set of statutory requirements do not apply to MOD (e.g. Nuclear Installations Act 1965, Air Navigation Order or Control of Major Accidents Hazards);

b. Disapplications from specific parts of statutory requirements (e.g. Environmental Protection Act 1990, Explosive Regulations 2014);

c. Provisions within legislation for exemptions to be granted from specific requirements in recognition of a Defence imperative (e.g. the Health and Safety at Work Act etc. 1974 (HSWA74) permits the SofS's to exempt the Department from any or part of the Act by order "*to the extent that it appears to him requisite or expedient to do so in the interests of the safety of the State*"). Other H&S regulations alternatively specify the exemption in the interests of national security.

d. Derogations are a lessening of a statutory requirement for justifiable practical or operational reasons (e.g. smoking in single living accommodation recognises the distinction from temporary accommodation such as hotels and hostels).

2. **Defence Policy and Regulations** The HSWA74 requires employers to "prepare and, as often as may be appropriate, revise a written statement of his general policy with respect to the health and safety at work of his employees". For these purposes, the SofS is regarded as the employer and complies with this duty through a Policy Statement. For convenience and consistency, this Policy Statement identifies the key requirements and high-level responsibilities for both health and safety and environmental protection and applies to all Defence activities and its personnel.

3. Where there is a disapplication, exemption or derogation from UK HS&EP legislation or where Defence activities are conducted overseas (outside of the requirement to respond to host nations' relevant HS&EP expectations and co-operate with their HS&EP authorities), the Policy Statement requires Defence to put in place arrangements that produce outcomes which are, so far as is reasonably practicable, at least as good as those required by UK legislation. Accordingly, a fundamental responsibility of the Defence Safety Authority (DSA) is to regulate activities against Defence Regulations where there are disapplications, exemptions

and derogations from statute. Defence Regulators are to consult with stakeholders on the maintenance of Defence Regulations that are appropriate to their domains: These regulations are to be coherent, consistent and proportionate to the risk and where possible goal-based across HS&EP Regulatory domains.

4. It is essential that Defence is aware of, and can appropriately influence emerging legislation and consider the potential for consequential constraints on Defence capability. It is this awareness that safeguards those circumstances where disapplications, provisions for exemptions are granted, or, derogations are sought. Therefore, DSA is to ensure that emerging and changing legislation is tracked and influenced in order to protect Defence interests and when necessary seek disapplications, derogations or the provision for exemptions to be granted.

5. **Visiting Forces** Under customary international law, Visiting Forces are not bound by domestic legislation: This is described in the Visiting Forces Act 1952. Visiting NATO Forces are subject to the Articles of the NATO Status of Forces Agreement (SOFA) 1951; of specific relevance to health, safety and environmental protection are Articles II, VII and IX. There is no similar agreement for non-NATO forces who visit, although certain aspects may be addressed in a Memorandum of Understanding; in these circumstances, normal protocol is applied bearing in mind that such Visiting Forces are covered by state immunity.

6. Interface arrangements for safety management between MOD, United States Visiting Forces and the HSE are set out in a Memorandum of Agreement, which is held on the Health and Safety website on the Defence Intranet. Enforcement action is limited to the issue of letters equivalent to Crown Notices with the recipient being an MOD employee. Similarly, there are interface arrangements for environment management between the Department, United States Visiting Forces and the EA.

## Chapter 3

### Responsibilities for Health, Safety and Environmental Protection in Defence Activities

1. **The Secretary of State for Defence** The SofS is regarded as the employer for the purposes of complying with the requirements of UK HS&EP legislation and is answerable to Parliament for ensuring Defence complies with this duty through a Policy Statement that identifies the key requirements and high-level responsibilities for HS&EP management. The Policy Statement is the Defence policy for complying with HS&EP requirements and applies to all Defence activities and its personnel.
2. **The Permanent Under Secretary** As the Department's most senior official for HS&EP matters, the Permanent Under Secretary (PUS) is to ensure that effective management arrangements and resources are in place to achieve compliance with the Policy Statement. PUS is to include HS&EP performance in the Department's holding-to-account process.
3. **The Director General, Defence Safety Authority** DG DSA is responsible, through a Charter from SofS, for the following responsibilities:
  - a. Empower suitably qualified and experienced Crown servants to regulate HS&EP for Defence activities in the UK where it has disapplications, exemptions or derogations from UK statutory requirements and Defence activities overseas, outside of the requirement to respond to host nations' relevant HS&EP expectations and co-operate with their HS&EP authorities;
  - b. To be the primary Convening Authority (CA) for Service Inquiries (SIs) into safety related fatalities, serious injuries and significant loss of major capability. To support him in this function, DG DSA maintains the Defence Accident Investigation Branch (Defence AIB);
  - c. As the Defence Authority for HS&EP setting standards and taking assurance of compliance by TLBs and Defence Executive Agencies where Defence has disapplications, exemptions or derogations through the Defence Regulators;
  - d. Providing independent advice to the SofS on HS&EP policy in Defence and evidence-based assurance that the policy is being promoted and implemented in the conduct of Defence activities; and
  - e. Providing the Defence Board with information on HS&EP matters at each meeting and an Annual HS&EP Assurance Report.

4. In support of these responsibilities, the DSA undertakes three main functions:

a. DSA Headquarters (HQ) oversees the management of the DSA, supports the CA for SIs, formulates MOD HS&EP policy and provides independent assurance to the SofS;

b. DSA Regulators regulate: Where Defence has disapplications, exemption or derogation from statutory requirements; overseas; where there are no statutory requirements for unique military activities, and, where statutory requirements exist but the high hazard nature of the activity demands a higher level of Defence assurance;

c. The Defence Accident Investigation Branch (Defence AIB) conducts impartial and expert 'no-blame' safety investigations across Defence in support of Service Inquires into safety related fatalities, serious injuries and significant loss of major capability.

5. **Defence Authority** DSA is one of 18 Defence Authorities, which set rules and standards that TLBs must follow to shape delivery of key functions that cut across Defence and are critical to Defence outputs. In accordance with the MOD operating model, "How Defence Works", Defence Authorities provide these 'defence directives' and TLBs' compliance with Defence Authority directives are assessed as part of the Defence Performance Framework and in an annual assurance report. As the Defence Authority for HS&EP, DG DSA discharges his responsibility specifically through the publication of HS&EP policy requirements and providing an independent Annual Assurance Report.

6. **DSA Publications** The DSA sets out rules and standards for Defence HS&EP in three broad levels of publications that is consistent with SofS's Policy Statement:

a. Level 1 –Departmental Policy for Defence HS&EP;

b. Level 2 – Defence Regulations owned by Defence Regulators; and

c. Level 3 – Guidance on complying with Defence Regulations.

7. **TLB Holders and Chief Executives** The SofS's policy statement requires TLB Holders (TLBHs) and Chief Executives (CEs) of both Defence Executive Agencies and the Defence Infrastructure Organisation (DIO) to conduct Defence activities in their area of responsibility (AoR) safely, environmentally responsibly and compliant with legislation. In this latter respect, each TLBH/CE discharges the employer's legal responsibilities, where they apply, on behalf of SofS. These employer's duties are further delegated by each TLBH/CE to those with direct responsibility for managing Defence activities within their AoRs. Where an individual has such responsibilities, the TLBH/CE is to ensure that they are suitably and sufficiently trained and provided with relevant information and access to resources to ensure compliance with the Policy Statement.

8. Importantly, where TLBHs/CEs are responsible for activities where there is a credible and reasonably foreseeable risk to life, the SofS's Policy Statement requires their appointment as Senior Duty Holders (SDHs) and to put in place an appropriate organisation and management arrangements to support these Duty Holding responsibilities.

9. **Chief Environment and Safety Officers** An employer is required by the Management of Health and Safety at Work Regulations 1999 to appoint a competent person or persons to assist him in undertaking the measures required to comply with statutory requirements. For Defence, TLBHs/CEs are to appoint a Chief Environment and Safety Officer (CESO) as a competent person, who is required to provide advice on and assurance of compliance with HS&EP statutory requirements. CESOs will also provide guidance, liaising with both statutory and Defence Regulators, on compliance with statutory and Defence Regulations.

10. **Organisation and Arrangements** The Management of Health and Safety at Work Regulations 1999 requires that employers describe, in writing, their organisation and arrangements for ensuring the health, safety and welfare of their employees and anyone else affected by their activities. Defence policy extends this legal requirement for describing organisation and arrangements to include the protection of the environment. The individuals with this responsibility include the TLBH/CE, Commanding Officer or Head of Establishment and each should set out the organisation and arrangements (O&A) in a statement that is appropriate to their level of responsibility and is a signed, dated and displayed prominently in their area of responsibility. There is no mandated or statutory format for O&A statements but to ensure a degree of consistency across Defence such statements should, as a minimum, contain the following information, which builds on the HSE's expectations for safety management:

- a. The requirement for the assessment of the risks to employees, contractors, customers, partners, and any other people who could be affected by your activities and to record the significant findings in writing.
- b. Any risk assessment must be 'suitable and sufficient';
- c. Arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures that come from risk assessment;
- d. Access to competent health and safety advice;
- e. The provision of employees with information about the risks in your workplace and how they are protected;
- f. Instruction and training for employees in how to deal with the risks;
- g. Ensuring there is adequate and appropriate supervision in place;

h. Consulting with employees about their risks at work and current preventive and protective measures.

11. **Safety Management Systems** A Safety Management System (SMS) is a formal management system or framework for managing health and safety. It is not a legal requirement to have a SMS but there are national and international standards that provide a format that can be adopted such as BS OHSAS 18001:2007 *Occupational health and safety management systems*. However, a SMS is useful in providing the detail of the expectations laid out in the O&A Statement. In its most basic form the HSE recommends that a system for managing health and safety uses a simple approach: Plan, Do, Check, Act. This is described in more detail in its guidance note HSG 65, “Managing for Health and Safety” (see table below). This can assist in achieving a balance between the systems and behavioural aspects of management, and treating health and safety management as an integral part of good management generally, rather than as a stand-alone system.

<b>Plan, Do, Check, Act</b>	<b>Conventional health and safety management</b>	<b>Process safety</b>
PLAN	Determine your policy/Plan for implementation	Define and communicate acceptable performance and resources needed
DO	Profile risks/Organise for health and safety /Implement your plan	Identify and assess risks/Identify controls/ Record and maintain process safety knowledge  Implement and manage control measures
CHECK	Measure performance (monitor before events, investigate after events)	Measure and review performance/Learn from measurements and findings of investigations
ACT	Review performance/Act on lessons learned	

12. The SMS can be expanded to include the environmental management system (EMS) for the management of environmental protection against standards such as ISO 14001. When combined with SMSs these management systems are often referred to as Safety and Environment Management Systems (SEMS).

13. Both statutory and Defence Regulators may consider the effectiveness of and adherence to an organisation’s stated management systems for managing safety and the environment as part of gathering regulatory evidence. This usually takes the form of audits, where aspects of the management system are explored.



14. **Safety Culture**<sup>2</sup> An organisation's safety culture is as important to its safety outcomes as is its SMS. Safety culture is defined in 1993 by the Advisory Committee on Safety of Nuclear Installations as: "*The safety culture of an organisation is the product of individual and group values, attitudes, perceptions, competencies, and patterns of behaviour that determine the commitment to, and the style and proficiency of, an organisation's health and safety management. Organisations with a positive safety culture are characterised by communications founded on mutual trust, by shared perceptions of the importance of safety and by confidence in the efficacy of preventive measures.*"<sup>3</sup> Many organisations speak of 'safety culture' when referring to the inclination of their personnel to comply with rules or act safely or unsafely. However, the culture and style of management is even more significant, for example a natural, unconscious bias to completing activities over safety, or a tendency to focussing on the short-term and being highly reactive. Symptoms of poor cultural factors include:

- a. Widespread, routine procedural violations;
- b. Ineffective reporting of safety and environmental incidents;
- c. Ineffective feedback and learning from safety and environmental incident reporting;
- d. Reactive rather than proactive responses to safety and environmental incidents and regulatory interventions;
- e. Failure to comply with the company's management systems (although either of these can also be due to poor procedure design); and
- f. Management decisions that appear consistently to put products and outputs or cost before safety.

15. Both statutory and Defence Regulators can gather and use evidence about an organisation's culture, although this generally requires interviewing a suitably representative sample of personnel from all levels. Key aspects of an effective culture:

- a. **Management commitment:** This commitment produces higher levels of motivation and concern for health and safety throughout the organisation. It is indicated by the proportion of resources (time, money, people) and support allocated to health and safety management and by the status given to health and safety versus production, cost etc. The active involvement of senior management in the health and safety system is very important.
- b. **Visible management:** Line Managers, Heads of Establishment and Duty Holders (safety leaders) need to be seen to lead by example when it

---

<sup>2</sup> Based on HSE's Common topic 4: Safety culture in support of Successful health and safety management, HSG 65

<sup>3</sup> ACSNI Human Factors Study Group: Third report - Organising for safety HSE Books 1993

comes to health and safety. Good safety leaders appear regularly on the 'shop floor', talk about health and safety and visibly demonstrate their commitment by their actions – such as stopping activities to resolve issues. It is important that safety leader is perceived as sincerely committed to safety. If not, personnel will generally assume that they are expected to put commercial interests first, and safety initiatives or programmes will be undermined by cynicism.

c. **Good communications between all levels of personnel:** In a positive culture questions about health and safety should be part of everyday work conversations. Safety leaders should listen actively to what they are being told by personnel, and take what they hear seriously. Active personnel participation in safety is important, to build ownership of safety at all levels and exploit the unique knowledge that personnel have of their own work. This can include active involvement in workshops, risk assessments, plant design etc. In organisations with a good culture, personnel and safety leaders will be consistent, and safety is seen as a joint exercise.

16. All regulators consider the safety culture of organisations they regulate. For example, for the HSE the level of safety culture is not an enforceable aspect of its regulation but it will make interventions where organisations are receptive, or as part of an overall incident investigation. However, enforcement can be taken to address outcomes of a poor culture. If an organisation is unsuccessfully relying on procedural controls to avoid major accidents, the regulator consider enforcement of management arrangements to either ensure compliance or provide alternative safeguards through the hierarchy of control. For example, Statutory Improvement Notices have been issued on implementing an SMS, including identification and control of human reliability risks and the offending company subsequently managed to reduce accidents by over 50%. DSA01.2 provides more background on safety culture and approaches for measuring it.

#### 17. **Line Managers, Commanding Officers and Heads of Establishment**

Line Managers, Commanding Officers and Heads of Establishment are required to ensure that the activities and premises that they control are safe, do not adversely impact on the environment and are compliant with relevant legislation and MOD policy. For safety, the HSWA74 specifies "General Duties" for those controlling activities and premises to ensure, so far as is reasonably practicable, the health, safety and welfare of employees and anyone else affected by the activity or who has access to those premises. More commonly, the phrase, "as low as reasonably practicable" or ALARP is used instead of "so far as is reasonably practicable" (SFAIRP) and the Health and Safety Executive (HSE) considers that the two terms mean essentially the same thing and at their core is the concept of "reasonably practicable". These General Duties describe the extent of the legal responsibilities and colloquially are often referred to as "Duty of Care". For environmental protection Line Managers, Commanding Officers and Heads of Establishment are to comply with applicable UK legislation, and overseas, apply UK arrangements where reasonably practicable.

18. **Duty Holders** MOD policy for Duty Holding requires the appointment of Duty Holders where it has been assessed that there is credible and reasonably foreseeable Risk to Life (RtL) from a Defence activity. Where appointed, a MOD Duty Holder is accountable for mitigating the RtL to ALARP and to a level that is tolerable for those involved in the activity and anyone affected by it, including the public. Importantly, a MOD Duty Holder's legal responsibilities for health and safety are no different to those of any person who has responsibilities for managing or directing the safety of their activities. However, MOD Duty Holders can be held formally to account for their actions. A Duty Holder shall put in place arrangements that conform to MOD's requirements for Duty Holding. These requirements and those for ensuring that all RtL is ALARP and tolerable are described more fully in DSA01.2. Duty Holding does not apply to the protection of the environment, which is covered by specific legal requirements. It should be noted that in some cases, UK health and safety legislation and the HSE refer to those with specified legal responsibilities for managing the safety of activities as ***duty holders***. The use of this term should not be confused with MOD's requirements for Duty Holding.

19. The fundamental elements of Duty Holding management arrangements are that there are three descending levels from the Senior Duty Holder (SDH) (TLBH/CE), Operating Duty Holder (ODH) and Delivery Duty Holder (DDH) and that any RtL is mitigated to ALARP and a level that is tolerable. Where this is not possible the Duty Holding arrangements shall allow risk to be elevated to the next level of Duty Holder. Importantly, the SofS's Policy Statement makes provision for the SDH ultimately to elevate risks to the SofS.

20. **Duty Holder-Facing Organisations** Organisations that provide "safe" equipment and platforms (e.g. DE&S), infrastructure (e.g. DIO) or other support required by the Duty Holder in mitigating RtL will be designated as Duty Holder-facing. A Duty Holder-facing organisation is responsible for assuring Duty Holders that equipment, platforms and infrastructure are safe to use by providing evidence in Safety Cases or equivalent safety evidence and/or providing the necessary support to Duty Holders. Where these assurances or services cannot be provided this will impact on the Duty Holder's ability to ensure that the RtLs from Defence activities are both ALARP and tolerable and the Duty Holder-facing organisation must ensure the Duty Holder is informed immediately and how this impacts on meeting the requirements of the safe operating envelope.

21. **Defence Contractors** Where Defence Contractors undertake work or provide services directly in support of Defence activities, they are to comply with the requirements of the SofS's Policy Statement and its amplification in any DSA publications. This shall be prescribed expressly in relevant contractual arrangements. Generally, Defence Contractors cannot benefit from any disapplication, exemption or derogation from statutory requirements granted to Defence where they control activities, but, there may be exceptions to this and where this is the case, the responsibilities for complying with Defence Regulations shall be specified in contractual arrangements. Significantly though, Defence Contractors do not enjoy any form of Crown Immunity from prosecution.

22. Specifically, where any UK Defence contractor designs, manufactures, imports or supplies any equipment for use by Defence at work it has legal responsibilities under HSWA74. For overseas manufacturers and suppliers, these requirements should be included in contractual arrangements. The UK responsibilities are to:

- a. Ensure, so far as is reasonably practicable, that the equipment is designed and constructed to be safe to operate;
- b. carry out or arrange for the equipment to be tested and examined to verify that it is safe to operate;
- c. provide the user of the equipment with information verifying that the equipment is safe to operate; and
- d. inform the user if the equipment becomes unsafe to operate.

23. **Employees** All Defence employees have legal responsibilities in UK health and safety legislation to take reasonable care for their health and safety and that of any other persons who may be affected by their activities, mistakes or omissions at work. Defence employees are also required to co-operate with their line or command management chain to ensure that their legal responsibilities are complied with. In doing so, no employee shall intentionally or recklessly interfere with or misuse anything provided in the interests of their health, safety or welfare. Employees are also required to comply with the requirements of the SofS's Policy Statement. HSE can prosecute any individual failing to comply with these legal responsibilities.

24. **Notification and Reporting of HS&EP events** As part of his HS&EP arrangements, TLBHs/CEs, Line Managers, Commanding Officers and Heads of Establishment are to ensure that the circumstances of a HS&EP event are recorded fully and reported to their nominated incident notification cell, and where appropriate, investigated. Decisions on the conduct of an investigation into a specific event will depend primarily on its consequences or potential consequences and the duties and requirements of other investigators. For example, for more serious HS&EP events, it is likely that other authorities (e.g. civil police, HSE etc.) will have primacy in conducting any investigation. The accurate reporting and recording of HS&EP events by TLBs and DEAs is essential as the basis for effective learning and prevention of their reoccurrence. The reporting of such events also supports the statistical analysis of HS&EP across the Department. The DSA is supported by Defence Statistics in collating, analysing and publishing such data for the Defence Board and for Annual Reports.

25. In addition to internal processes (including reports as necessary to Ministers) TLBs and DEAs are responsible for providing notification of the following serious events:

- a. Enforcement by a statutory regulator TLBs/DEAs etc. are to notify DSA HQ of any enforcement action taken by statutory regulators as soon as

possible. The information for Defence Board is to include brief details of the enforcement action and the progress made in resolving the issue.

b. Fatalities and serious HS&EP events TLBs/DEAs are responsible for ensuring that the SofS and the DSA, through the Deputy Chief of Defence Staff Duty Officer (DCDSDO), are notified immediately of any work-related fatalities providing the information below. Additionally, the DSA HQ is to be notified of any other serious HS&EP events (e.g. life-threatening injuries, major pollution incidents). It is also necessary to notify relevant statutory enforcement authorities when safety-related fatalities or serious environmental events occur.

- (i) Fatality to: Military personnel/MOD civilian/Defence contractor /member of the public as a result of Defence activity;
- (ii) Date, time and location (unit – ship, battalion, squadron, establishment);
- (iii) Suspected cause of death (e.g. fall from height);
- (iv) Confirmation that DSA, HSE and civil police have been informed;
- (v) Next of Kin Informing is being undertaken / complete;
- (vi) Nature of any immediate actions e.g. activity stopped or suspended;
- (vii) Presentational issues – media interest and Press Briefings;
- (viii) Unit point of contact
- (viii) Copy to: Other ministers, PUS / CDS, DDC, DG DSA

**Deliberately left blank**

## Chapter 4

### Risk Management

1. **Requirement** The SofS's Policy Statement reiterates the legal requirement that TLBHs/CEs, Line Managers, Commanding Officers and Heads of Establishment, Duty Holders and anyone else with responsibilities for managing Defence activities comply with UK legislation in managing HS&EP risk. Further details on these requirements are provided in DSA01.2. Broadly, risk management in Defence can be considered in three areas:

- a. Specifically for health and safety this is to ensure, so far as is reasonably practicable (or ALARP), the health safety and welfare of their employees and anyone else who might be affected by their activities. This is commonly referred to as the "duty of care".
- b. Where a Defence activity presents a credible and reasonably foreseeable RtL, MOD Policy requires specified individuals to be designated as Duty Holders to ensure these risks are both ALARP and tolerable.
- c. Where Defence activities can lead to environmental risk a similar proportional approach is used but often within defined limits for planned activities where there may be an environmental impact.

2. **Risk Assessments** The degree of rigour applied to assessing any risk from a Defence activity needs to consider both the overall risk and the consequences of failure. In its simplest form a Risk Assessment comprises five steps, to be applied to ensure effective assessment and management. Anyone who either or both authorises or controls the activity must ensure the risk assessment is suitable and sufficient for the nature of the activity and is to ensure all staff are made aware of the risks and control measures needed to ensure safe and environmentally responsible working practice:

- a. Step 1: Identify the hazards.
- b. Step 2: Decide who or what environment might be harmed and how.
- c. Step 3: Evaluate the risks and decide on precautions.
- d. Step 4: Record your significant findings and implement them.
- e. Step 5: Review your risk assessment and update if necessary.

3. **Safety Cases** If the work-related Defence activity takes place on or involves a complex system (aircraft, ship or other complex platform) a simple risk assessment will not be sufficient to assess the potential impact on the health and safety of the workforce or public or impact on the environment. The use of a safety (or environmental) case provides the ability to understand the cumulative or

interrelated risks from the use of the complex system and for this to be captured in a body of evidence. The Defence Standard definition of a safety case is “*a structured argument, supported by a body of evidence that provides a compelling, comprehensible and valid case that a system is safe for a given application in a given operating environment*”.

4. **Assessment of environmental risk** Environmental protection legislation uses different terms from health and safety legislation, such as ‘As Low As Reasonably Achievable’, ‘Best Available Techniques’, ‘Best Practicable Environmental Option (BPEO)’, which have subtle variations of meaning. For brevity “selection of BPEO’ is used to describe the acceptable reduction of environmental risk. While the terminology may differ, the same approach is used to manage environmental risk, relying on a risk assessment such as an environmental impact risk assessment to understand if measures are required to mitigate any reasonably foreseeable environmental impact.

5. **Organisational Safety Assessment** Changes to an organisation, if poorly conceived or controlled, have the potential to be detrimental to standards of HS&EP. The Nimrod Review (2009) observed that, “MOD suffered a period of deep organisational trauma between 1998 and 2006 due to the imposition of unending cuts and change which led to the dilution of its safety and airworthiness regime and culture...”. It is therefore an explicit requirement of the Policy Statement that at the proposal stage and, prior to any implementation of change in an organisation, the person requiring the proposed organisational change is to conduct an Organisational Safety Assessment of the impact on existing safety baseline, HS&EP risks and performance. Detailed requirements for and guidance on undertaking OSAs is provided in DSA01.2.

6. **ALARP** Once the risks are assessed a decision must be made on what actions need to be taken to reduce or mitigate these risks to ALARP, which allows the Line Manager, Commanding Officer, Head of Establishment or Duty Holder to make an informed decision about how much money, time and effort is used to mitigate any particular risk. The legal definition of reasonably practicable was set out by the Court of Appeal (Edwards v. National Coal Board, 1949) as:

*“‘Reasonably practicable’ is a narrower term than ‘physically possible’ ... a computation must be made by the owner in which the quantum of risk is placed on one scale and the sacrifice involved in the measures necessary for averting the risk (whether in money, time or trouble) is placed in the other, and that, if it be shown that there is a gross disproportion between them – the risk being insignificant in relation to the sacrifice – the defendants discharge the onus on them.”*

7. **Tolerability of Risk** Where risks are significant, for example where there is a credible and reasonably foreseeable RtL, there may be a need to decide if the mitigated risk is tolerable for those involved in the activity and anyone affected by it, including the public, often referred to as the societal risk. It is accepted that, in some circumstances, the use of a disapplication, exemption or derogation from legislation may result in the risk from a Defence activity being higher than an



equivalent (if such exists) non-Defence activity. The management of the risk for such a Defence activity permits the tolerability of the risk to be considered when justifying the higher risk against the benefits of that activity and, in particular, being able to respond to changed priorities requiring, for example, the rapid deployment of a Defence capability. The consideration of the tolerability of a risk is not a requirement defined in the HSWA74.

**Deliberately left blank**

## Chapter 5

### Checking and Performance Reporting

1. **Requirement** Checking and reporting performance is an essential part of managing safety and environmental protection and can be performed at different levels of management within an organisation. For example, Line Managers, Heads of Establishment and Commanding Officers all need to check that they are compliant with HS&EP MOD policy and legislation; CESOs check and report compliance to their senior management that their units and establishments are compliant with HS&EP MOD policy and legislation and Duty Holders check and report to the next Duty Holder in their chain that RtLs are ALARP and tolerable. Checking can use different approaches including monitoring, reviewing, auditing and inspecting (as a regulatory function) as part of measuring, correcting, improving and providing evidence about HS&EP performance. The processes used for checking should be proportional to the consequences of failure when conducting activities and can include:

- a. Use of proactive and reactive performance indicators, such as HS&EP event reporting trends, audit trends, trends in enforcement action, lessons learnt from near misses and actual HS&EP events and assessments of safety culture;
- b. Specific monitoring of health and safety effects where these might result from undertaking an activity, such as work-related stress or noise-induced hearing loss. The review or a specific investigation of the circumstances leading to such health effects is essential to understand the causes so as to prevent their reoccurrence;
- c. Processes for reviewing, auditing and inspecting both the HS&EP management arrangements and the activities conducted, which will range from self-assurance to independent 3<sup>rd</sup> party assurance.

2. **HS&EP Baseline** The HS&EP baseline describes the collective standards of HS&EP performance within an organisation. Any responsible and proactive organisation will understand what its baseline comprises as part of a “Plan, Do, Check, Act” approach because it will inform plans for implementing improvements, identifying and managing risks. Evaluating and understanding the HS&EP baseline is fundamental to maintaining and improving performance because it provides the reference point from which to monitor any changes in HS&EP performance over time and, in particular, assess the impact of any improvement programme or organisational change as part of an Organisational Safety Assessment (OSA). Establishing and maintaining a HS&EP baseline may be considered as an overhead because it will require resourcing, but, this should be off-set by the cost-saving from preventing or reducing avoidable HS&EP events. It is important that once established, the baseline should be captured as the original benchmark from which to assess changes in performance. However, a major change may allow a new baseline to be established. The HS&EP baseline will comprise a variety of sources of information including but not exhaustively:

- a. Results of HS&EP audits, particularly if these are provided independently by a 3<sup>rd</sup> party either specifically commissioned or from external authorities such as regulators, both statutory and Defence;
- b. Peer reviews providing by other related organisations or comparative exercises;
- c. Data from accident and injury reporting, including trends;
- d. Description of the organisation and arrangements including responsibilities and posts specifically identified with HS&EP responsibilities;
- e. Compliance performance verified by audit or from records of regulator interventions;
- f. Measurement against other metrics such expenditure on HS&EP training; and
- g. Assessments against safety culture models.

3. **Auditing** Auditing is an effective tool in checking performance. It can be undertaken to assess the effectiveness of management arrangements, changes over time and provide management information for specific areas of activity (functional audits). In general, audits can be carried out at three levels:

- a. Level 1 or 1<sup>st</sup> Party audits are effective self-audits by those managing the activity. They are an important management tool for verifying that the management arrangements are being implemented, especially at the unit level by line managers, Commanding Officers and Heads of Establishment.
- b. Level 2 or 2<sup>nd</sup> Party audits are undertaken by specialists outside of the immediate line management chain but still within the organisation. As such, they provide a degree of independence and provide a verification of the effectiveness of the Level 1 audits. They are useful in informing management action plans where areas for improvement are required. The CESO, or their equivalents, within TLBs and DEAs provide this type of function.
- c. Level 3 or 3<sup>rd</sup> Party audits are fully independent of line management or its organisation. Periodically, organisations may choose to commission these types of audits to verify independently the effectiveness of their HS&EP management arrangements. Level 3 or 3<sup>rd</sup> Party audits are also conducted by Defence Regulators as part of their regulatory processes in understanding how organisations are performing in their specific areas of interest.

4. **Performance Reporting** The measuring and reporting of HS&EP performance is a necessary part HSE's "Plan, Do, Check, Act" approach. It allows Line Managers, Commanding Officers and Heads of Establishment to check how

effectively policy and statutory requirements are being implemented, where the areas are that require improvement and where are the risks to performance. All these can be compared with the HS&EP baseline. However, care should be taken not to report or use ineffective data and information, which may obscure the key information: Not all information that can be measured needs to be reported.

5. The reporting requirement is the responsibility of line management, but, this needs to be informed and guided by those with necessary expertise, for example, TLB CESOs. A careful choice of data and information will ensure line management receives an accurate and representative understanding of HS&EP performance that will assist in directing resources and attention to the areas for improvement that have the greatest effect. The type of performance reporting will also be determined by the interests of those requiring the information and can be at several levels: For example, at the unit level, Line Managers, Commanding Officers and Heads of Establishment will require information to measure legal compliance and demonstrates risks are ALARP. Often this will be provided for a safety committee, comprising management interests from across the unit or establishment (Heads of Department, contractors, Trades Unions etc.).

6. At the organisational level, TLBHs/CEs will require regular performance reporting from both their nominated Duty Holders and other senior managers to provide understanding of: Any strategic HS&EP risks; performance against policy and statutory requirements; the level of HS&EP culture and any negative trends in HS&EP metrics, such as personal injury accident rates, and, any enforcement action. TLBHs/CEs will use this information for their holding to account reporting to PUS.

**Deliberately left blank**

## Chapter 6

### Competence, information and training

1. **Requirement** An effective HS&EP management system requires:
  - a. Access to competent HS&EP advice;
  - b. The provision of information to employees about the risks in the workplace and to the environment and how these are mitigated;
  - c. Instruction and training for employees in how to deal with the risks.
  
2. **Competence** HSE defines competence as “the ability to undertake responsibilities and perform activities to a recognised standard on a regular basis. It combines practical and thinking skills, knowledge and experience”. This is broader and more demanding than “suitably qualified and experienced personnel” (SQEP) because it is a measure of personal ability to undertake a role and implies some form of verification of that ability. Anyone controlling or requiring a Defence activity to be undertaken must specify the level of safety and environmental competence required for any persons involved in that activity. Defence prescribes functional competencies for those with specific safety and environmental protection responsibilities, which can be accessed from the Defence HS&EP webpage. Typically these apply to the following roles, each of which also may also have specific role competence requirements:
  - a. HS&EP specialists such as unit level advisers and CESOs;
  - b. Auditors of HS&EP performance;
  - c. Defence Regulators;
  - d. Duty Holders;
  - e. Commanding Officers, Heads of Establishment, managers and supervisors of activities;
  - f. Contractors.
  
3. There are no specific functional competencies for Duty Holders, Commanding Officers, Heads of Establishment, managers or supervisors. Each will require specific levels of experience and training. CESOs can provide advice on the broader HS&EP competence expectations for TLBHs/CEs, Commanding Officers, Heads of Establishment, managers and supervisors and Defence Regulators will advise on the competence expectations for Duty Holders. Duty Holders, managers and Heads of Establishment are to ensure that anyone working within their area of responsibility, either Defence employee, contractor or industrial partner are competent to undertake the activities required safely.

4. **Information** The provision of information about the risks to HS&EP in a specific or particular workplace and the protective measures that are in place should supplement the training and instruction given to Defence employees, contractors and industrial partners to enable them to conduct their activities safely. This is particularly important where Defence Regulations and regulatory activity apply because Defence has disapplications, exemptions or derogations from statutory requirements and this should be specified in the contract or agreement with the contractor or industry partner.

5. **Training** It is a requirement of UK health and safety legislation that the employer and manager provide sufficient instruction and training for its employees to allow them to undertake their activities safely. MOD policy demands this applies equally to the protection of the environment. The delivery of instruction and training can be through induction training on joining a unit or organisation, practical on-the-job training, formal instruction or computer-based training. Ideally, there should be some form of verification that the training has been undertaken, understood and repeated at appropriate intervals.

6. **Duty Holder Training** Duty Holder training is provided by the DSA: For military aviation the Military Aviation Authority (MAA) mandates specific training. For non-aviation activities DSA strongly advises attendance on its generic Duty Holder training. It is important that Duty Holders and representatives of Duty Holder-facing organisations at all levels receive training on Duty Holding.



## Chapter 7

### Regulation, Assurance and Enforcement

1. **Requirement** Regulation, assurance and enforcement are the activities conducted by all regulators. Defence is required to comply with UK HS&EP statutory requirements and is regulated by statutory bodies such as HSE, EA etc. However, where Defence benefits from disapplications, exemptions and derogations from statutory HS&EP requirements, DSA is required to have in place Defence Regulators to provide regulation, assurance and enforcement in order to comply with the SofS's Policy Statement.

2. **Statutory Regulator** Most Defence activities in the UK are subject fully to relevant HS&EP legislation and are regulated by a statutory regulator. The regimes operated by statutory regulators are dependent on the legislation that empowers them, and there is considerable variety. In general, activities with the highest consequences, should there be a failure, attract the greatest intervention from regulators, many of whom 'license' or 'permission' activities. In keeping with the Regulator's Code, statutory regulators provide advice at their own volition. Statutory regulators may also investigate accidents and incidents as part of their enforcement role and these investigations are used to support enforcement action.

3. Statutory regulators with powers in respect of certain Defence activities in the UK include (the list is not exhaustive):

- a. HSE (for Great Britain).
- b. Health & Safety Executive for Northern Ireland (HSENI).
- c. Environment Agency (EA).
- d. Scottish Environment Protection Agency (SEPA).
- e. Natural Resources, Wales (NRW).
- f. Northern Ireland Environment Agency (NIEA).
- g. Maritime & Coastguard Agency (MCA).
- h. Driver & Vehicle Standards Agency (DVSA).
- i. Office for Nuclear Regulation (ONR).
- j. Local Authorities (LAs).
- k. Defence Fire Safety Regulator.

4. The DSA co-ordinates and maintains the Department's formal agreements with some statutory regulators providing interpretation of their responsibilities in Defence, interactions with Duty Holders, Commanding Officers or Heads of Establishment and collaborative arrangements with Defence Regulators. These are reproduced on the Defence HS&EP website.

5. Statutory regulators have enforcement powers and regimes granted to them by legislation. Whilst varied in detail (see relevant statutory regulators' publications) they are Improvement Notices, Prohibition Notices (or withholding or withdrawing a license, permission or permit, either fully or in part, where an activity is or is to be licensed, permissioned or permitted) or prosecution in criminal courts. However, because Defence as a Crown Body enjoys immunity from prosecution by the Crown, the enforcement powers of statutory regulators are modified to recognise this.

6. Where a Defence activity conducted by Crown servants (i.e. members of the Armed Forces or MOD civilians) is alleged to have offended, the statutory regulators' powers are, in general, modified to issuing a non-statutory Crown Improvement Notice or Crown Prohibition Notice or a Crown Censure (in lieu a prosecution where it is considered to be in the public interest). Importantly, where a Crown Censure is issued by HSE, it is the expectation that this is received in person at the Crown Censure hearing by the relevant TLBH/CE. Further detail of these processes as applied under HSWA74 may be found in the MOD-HSE General Agreement. An equivalent process for statutory environment regulators is to apply to either the High Court (England, Wales and Northern Ireland) or the Court of Session (Scotland) for a declaration that a Crown activity is unlawful. Both the HSE and the EA have undertaken, through their agreements with the Department, not to prosecute Crown servants in lieu of corporate responsibilities. The exception to this is that a Crown Servant can be prosecuted in circumstances where it is alleged that the offence has been committed with his consent or connivance or has been attributable to his neglect. Crown servants remain subject to the criminal law and may also be prosecuted if it is alleged that they have committed a criminal offence, such as manslaughter.

7. Armed Forces personnel are additionally subject to Military Law and may be prosecuted if it is alleged that they have committed a disciplinary offence. If it is alleged that gross negligence or the failure of a Duty Holder, Commanding Officer or Head of Establishment to address or refer HS&EP issues within his AoR has occurred, disciplinary action under the Armed Forces Act or Civil Service Code of Conduct may be taken.

8. The exception is that there is no Crown exemption from prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007. The Department is the corporate entity that would face prosecution, should an offence be alleged.

9. **Defence Regulators** DG DSA is authorised through the Charter to empower suitably qualified and experienced Crown servants to regulate HS&EP activity across Defence where: Defence has a disapplication, exemption or derogation from UK statutory requirement; no statutory requirement exists for a

specific Defence activity; Regulatory assurance is required for specific hazardous activities even though statutory requirements exist, and, for all activities undertaken overseas, unless these are covered by a host nation's arrangements. Defence Regulators are to operate regimes that are aligned, where reasonably practicable, with statutory equivalents or near equivalents in order to produce outcomes that are so far as practicable at least as good as those required by UK legislation. The three functions of Defence Regulation are:

- a. **Regulation**            The setting of Defence Regulations where required by SofS's Policy Statement;
- b. **Assurance**            The assurance of compliance with these Defence Regulations; and
- c. **Enforcement**        Enforcement action for breaches of Defence Regulations.

10. The six Defence Regulatory domains are listed below, in alphabetical order, and their detailed and specific responsibilities are described in their respective Defence Regulations:

- a. Defence Fire Safety Regulator (DFSR) is the only statutory regulator and enforces fire safety legislation within Defence;
- b. Defence Land Safety Regulator (DLSR) regulates land systems, fuels, gases, movements and transport and adventurous training;
- c. Defence Maritime Regulator (DMR) regulates ship and diving safety;
- d. Defence Nuclear Safety Regulator (DNSR) regulates nuclear activities and radiological safety of the Defence Nuclear Programmes;
- e. Defence Ordnance, Munitions and Explosives (OME) Safety Regulator (DOSR), regulates ordnance munitions and explosives, land ranges safety policy and major accident control regulations (MACR).
- f. Military Aviation Authority (MAA) regulates all aspects of air safety across Defence.

11. As required by the Charter, DSA maintains an appeals process. In the event of a dispute between a Defence Regulator and anyone in Defence subject to an enforcement action, the issue will be escalated for resolution through the respective command / management and DSA hierarchy, up to and including SofS if necessary.

12. **Overseas Authorities** Notwithstanding the position of state immunity under customary international law, many host nations have HS&EP authorities with expectations (which may be expressed in written agreements) in respect of UK Defence activities conducted in their jurisdiction. A Duty Holder, Line Manager or Head of Establishment is to engage with such authorities, recognise international

(e.g. coalition partners) and national sensitivities and is to respond to expectations. Where host nations HS&EP requirements do not apply, Defence Regulators are empowered to regulate UK Defence activities overseas, and they co-operate and collaborate with overseas authorities adjusting their regulatory regimes as necessary.