

**GUIDANCE FOR THE MANAGEMENT OF CASES INVOLVING SEXUAL
OFFENCES IN THE SERVICE COMMUNITY INCLUDING RECRUITMENT
AND RETENTION**

Introduction

- 1) Recommendations from the Bichard Report, together with heightened awareness of the use of computers to access illegal pornographic websites has led to a review of how cases involving sexual offences are dealt with in the Service community. Reflecting current social trends, it is evident that within the wider Service Community – Service personnel and their families, civil servants, accredited contractors and other civilians - there will be individuals who have been or will be suspected, accused or convicted of having committed sexual offences.
- 2) The purpose of this guidance is to ensure that the risks of having these individuals working and living in the Service community are properly assessed and balanced against the operational efficiency of the Armed Forces, and the rights of the accused. In following these guidelines and others contained in the related documents referred to below, protection from harm can be provided for victims or potential victims, the wider Service community, offenders or individuals under investigation and the Armed Forces and Ministry of Defence.
- 3) The guidance is intended for Commanding Officers, Personnel Managers, Recruitment Managers and other officers and managers who may be involved with decisions about the recruitment and retention of individuals who have been convicted or accused of, or are under investigation for, or identified as being involved in, committing a sexual offence. It aims to bring consistency to the management of such cases within each Service.
- 4) The nature of the Service role requires a Service person to behave in such a manner that does not undermine or adversely affect the maintenance of discipline and thereby reduce operational effectiveness. The cohesion of the Service community is based on mutual trust and respect, which can only be achieved by maintaining high standards of behaviour. This guidance aims to help Commanders and Line Managers make decisions in situations where these standards may have been abused.
- 5) All cases, regardless of the perceived seriousness, will require an assessment of the associated risks which will include: the impact on the cohesion of the Service community, such as the undermining of operational effectiveness, morale and discipline; the likelihood of reoffending; likely contact with young people and vulnerable adults, and

possible risks to the accused.

Making Decisions

- 6) Decision making in such an area is never risk-free. Sound decisions depend on careful analysis of the facts and it is important that the decisions made are reasonable in that:
 - a) All appropriate steps are taken.
 - b) Reliable assessment methods are used.
 - c) Information is collected, collated and thoroughly evaluated.
 - d) Decisions are recorded and subsequently implemented.
 - e) Established policies and procedures are followed.

Part of the decision making process will be to complete a risk assessment of the suitability of an individual to be recruited, retained in the Service or employed in a particular post or field of employment. This will be co-ordinated by the single service focal point (see paragraph 12), when necessary calling upon relevant subject matter experts e.g. service police, medical authorities, welfare and legal staff, with appropriate input from the individual's current commander.

- 7) It is important to realise that the transfer of individuals for minor incidents which may have a sexual side to them could have a significant impact at another location. Such information should be brought to the attention of the single service focal point when a request is made. Such reasons for a transfer request must be kept on file. It may also be useful to refer to JSP 763, which defines MOD harassment policy, and sets out a MOD-wide definition of harassment (including bullying).

Sharing information

- 8) Confidentiality must be maintained at all times and only those whose involvement is essential should be informed. There will be times however, when relevant information about an individual becomes available, the sharing of which has to be balanced against extant legal requirements including an individual's human rights, rules of disclosure and data protection principles. The information should only be shared if doing so is reasonable, and can be justified on the grounds of necessity and proportionality; the protection of the vulnerable must have a higher priority than bureaucratic or administrative observance and individuals may be criticised for withholding information that may have a part to play in the avoidance of an incident.
- 9) As far as record keeping is concerned, it is important to have a sensible and consistent approach to decisions on the review, retention or deletion of information. There is a balance to be made between the processing of sensitive information and the MOD's duty of care to the whole Service community. Thus, information about involvement in sexual offences will remain on file for the duration of an individual's career.

Victims

10) Reference should always be made to existing legislation and supporting guidance and regulation already available for dealing with and caring for a victim of crime. Commanders and Line Managers are to make themselves aware of the various mechanisms available for supporting victims. It is vital that the relevant professionals and organisations in the medical, welfare or religious fields are engaged appropriately.

Situations to manage

11) The guidance given below concerns the decision making process for the following groups:

- a) Potential recruits
- b) Those who may be unsuitable to work with children and/or vulnerable adults after a Criminal Records Bureau (CRB), Security or Service Police check
- c) Those under investigation for or charged with a sexual offence
- d) Those convicted of a sexual offence and who may possibly be retained in the Services

12) When a case involving a sexual offence is discovered, in the first instance it will normally be dealt with by the Civil or Service Police and then by the appropriate single Service chain of command. In each Service, there is a focal point for handling these cases and providing specialist advice. They should be informed at the earliest possible opportunity when it is known that an individual is under investigation for, has been charged with or has been convicted of a sexual offence. At present the focal points are:

Royal Navy: CS Law Disc 1
Army: PS2(A) Casework
RAF: SPC (Admin Casework)

If the case concerns a member of the Civil Service working within an Armed Forces command, the contact point will be the Local HR Business Manager; if it concerns a member of a contractor's workforce working within an Armed Forces formation, the contact point will be the company's HR department. In the case of a small company, the point of contact will be the company's owner.

13) This guidance should be read in conjunction with the relevant single services disciplinary guidance whose reference is given here but which may be subject to change:

Royal Navy: PLAGOs (see particularly 0413)
Army: AGAIs (see particularly 62)
RAF: AP 3392 Vol 4, Vol 5 & P1 Policy Letters

Potential Recruits

14) MOD actively promotes equality of opportunity for all and selects all

candidates for interview based on their skills, qualifications and experience. The fact a person may have been convicted of a criminal offence is not in itself a bar to employment in the Armed Services; suitability is judged against single Service recruitment standards.

- 15) When taking a decision to employ an individual who has committed or been accused of committing a sexual offence, an assessment will be made to consider whether the offence demonstrates a disregard for the personal qualities that are required in Service personnel. A Suitability Assessment is given at **Annex A**.
- 16) There are specific posts which require a check from the Criminal Records Bureau (CRB): see the DIN entitled "**CRB Employment checks and Checks on Personnel working with Children and Vulnerable Adults**", Reference 2005DIN02-115 and the MOD complies fully with the CRB Code of Practice having undertaken to treat all applicants fairly.

Those who may be unsuitable to work with children and/or vulnerable adults after a Criminal Records Bureau (CRB), Security or Service Police check

- 17) There may be occasions when an individual is to be or has been posted to a role requiring a CRB check, which subsequently indicates that there is evidence of or suspicion of involvement in, or the commission of, a sexual offence. This fact will normally disbar the individual from taking up or continuing in the post. In this case the focal point (see para 12) should be consulted at the earliest opportunity. In order to reach a decision, a risk assessment should be carried out and a model is given at **Annex B**.

Individuals under investigation and Individuals charged with an offence

- 18) Either the Civil or Service police will have brought the case to the attention of the CO or they must be informed as soon as possible - see paragraph 12. The overriding aim of dealing with such cases is to ensure the reduction of any risks, both to the community, immediate victims and the individual, while maintaining operational effectiveness. Consideration should always be given as to whether the individual should remain in post.
- 19) Experience shows that individuals who are being investigated and individuals who have been charged with an offence undergo high levels of stress and can run a high risk of causing themselves self-harm. It is the duty of the MOD to ensure that every reasonable precaution is taken to provide individuals with appropriate support. The Civil and Service police have guidelines in place regarding the prevention of self-harm, as do all the Services whose guidance can be found at the references in paragraph 13. It is important to ensure that regular and close liaison is maintained with the investigating police agency.
- 20) As soon as possible after being given permission by the investigating police agency an interview should be arranged to set in place support for the alleged suspect and, where necessary, that person's family.

Consideration should always be given to involving other welfare agencies. The interview should be non-judgemental and will be focused on ways to support the individual. It should be remembered that support for the individual from the family cannot always be guaranteed.

- 21) If there is likely to be media interest in the case, the appropriate Press Office should be given an early briefing after consultation with the relevant investigating Police agency. Advice and assistance will be offered to the individual for this aspect of their case.
- 22) If after thorough investigation an allegation proves to be unfounded or unsubstantiated, or if a trial results in acquittal, it will be necessary to consider with the individual how they may return to normality. Careful thought will have to be given to any follow-up action required and continued medical and welfare support should be actively considered.

Individuals convicted of a sexual offence

- 23) Following conviction at courts-martial or by civil courts, **in exceptional circumstances**, there may be a small number of people who will be retained in the Armed Forces. The risks that may be posed by the individual (see paragraph 5) together with the circumstances under which such individuals might be employed, will need to be carefully assessed. Each Service has procedures to deal with the situation and using the Risk Assessment model at **Annex B** will help the decision-making process.
- 24) Judgements will need to be made about the practicalities involved in regard to future employment and deployment of these persons. Each case must be considered on its own merits. If a decision to retain such a person is made, there must be put in place a procedure appropriate to the circumstances to ensure that a review of the situation takes place at relevant points of that individual's career e.g a new posting. Thought must be given as to how the situation might change in the future and to this end it is important that future Commanding Officers and Line Managers are kept informed and provided with advice where appropriate and lawful. (See Paragraphs 8 & 9).

Notification requirement

- 25) Those who are convicted or receive a civil police caution for an offence covered by the Sexual Offences Act 2003 (SOA) may be issued with a **Notice of Requirement to Register with the Police**. Whilst the onus is on the individual to comply with the registration requirements, it is important to ensure that individuals are aware of their responsibilities and the need to comply with relevant Service Regulations and Instructions dealing with the reporting of civil convictions to their Commanding Officers/Line Managers.

Travel and Deployment Abroad

- 26) An individual with a notification requirement and who intends to leave the UK for a period of 3 days or more must give not less than 7 days' notice to

the civil police. While it is clear that it is the individual's responsibility to make appropriate arrangements even if subject to short notice deployment, registration as a sex offender does not prevent an individual from being posted, albeit a new posting will require a formal review of the case. (see Paragraph 24).

Dealing with Dependants of Armed Forces Personnel and other Civilians

- 27) There are dependants of Service personnel and other civilians who are or who will be registered sex offenders and who live in the Service community. In the UK the civil police will deal with these individuals and will liaise with the Service authorities where appropriate.
- 28) If Service personnel with a dependant in this situation are posted overseas, it will be necessary to consider the case of each individual with a view to risk managing the family as a unit. Moreover, it is important to ensure that an individual is aware that such circumstances may impact on their employability.
- 29) If civil servants, accredited contractors, other civilians or their dependants living in the Service community are found to be convicted of or involved in committing sexual offences, contact should be made in the first instance with the appropriate employing authority with a view to assessing the situation and ensuring the safety of the community.