



Ministry  
of Defence

# JSP 815 Volume 2 Annex C

## Duty of Care on Deployments (Element 5)

## **Annex C - Duty of Care on Deployments**

### **Duty of care**

1. Under the Health and Safety at Work etc Act 1974 (HSWA) every employer has a duty to ensure that, so far as is reasonably practicable, the health, safety and welfare of employees (including Crown servants, such as Service personnel) are protected. Subject to some limited exceptions, this Act does not apply outside the UK. However, all employers still have a common-law duty of care to their employees and this duty has no geographical boundaries, therefore Defence must fulfil the duty of care owed to its personnel on deployments<sup>1</sup> for operations and exercises in the UK and overseas.
2. UK health and safety (H&S) legislation and Defence safety policy or regulation requires identifiable safety risks, whether in the UK or overseas, to be owned and managed to a level as low as reasonably practicable (ALARP). In particular, while UK Forces are on deployed operations or on exercises outside the UK the Secretary of State's Health Safety and Environmental Protection (HS&EP) policy statement requires that such risk management must achieve outcomes at least as good as those required under UK and Host Nation law, whichever is more stringent.

### **Overseas collaborative working and secondment postings.**

3. Those deploying Defence personnel, or those responsible for the engagement in collaborative activities, that will be under the control of a foreign state authority or other government department, should be able to demonstrate that:
  - a. they will comply with the laws of host states where they apply to them, and in circumstances where such requirements fall short of UK requirements, they will apply UK standards so far as is reasonably practicable (SFAIRP) to do so in accordance with SofS policy: and
  - b. adequate information, instruction and training is provided to mitigate any additional risk from differing standards of other nations H&S legislation requirements for duty of care compared to that of the UK.

### **Management of safety risks on deployments**

4. For deployments safety risks can be categorised as being:
  - a. operating risks – those known or that became apparent prior to deployment, incurred by the operation of capabilities and equipment within a defined operating envelope (for example asbestos and fire risk) for which Force Elements have been trained and equipped; and
  - b. operational risks – those incurred on combat operations or other circumstances including where the Operational Commander requires Force Elements to operate outside their defined operating envelope.

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<sup>1</sup> The movement of troops or equipment to a place or deployed position to allow military activities to take place (e.g. military operations, humanitarian missions, disaster relief).

5. Where it has been decided by the Defence organisation's senior leader or by regulation that Duty Holding is applicable, the Duty Holder is responsible for ensuring that any deployed Force Elements fully understand and have practised high-risk activities within the defined operating envelope and retains this responsibility in operational environments.

6. The processes for managing risks will vary according to the circumstances of the deployment but should as a minimum, involve liaison between the Tasking Authority<sup>2</sup>, the Deploying Organisation<sup>3</sup>, the Force Generating Command<sup>4</sup>, the Operational Commander<sup>5</sup> or the person who has been appointed to take charge of the activity and any specialist advisers required to provide subject matter expertise on specific areas of risk<sup>6</sup>. The process should also encourage environmental health staff to be included within reconnaissance parties in order to enable the early identification of environmental and industrial hazards.

7. During the planning of an overseas operation or deployed exercise the Deploying Organisation must undertake an Environmental and Industrial Hazards (EIH) assessment of the infrastructure or equipment to identify the presence of any reasonably foreseeable hazard(s) that could cause harm. This assessment should be conducted as part of a reconnaissance visit and must be conducted by a person trained and competent in the identification of EIH risks.

8. If for operational reasons an EIH assessment cannot be conducted via a reconnaissance visit, then the reasons must be documented and the EIH assessment completed prior to use of the infrastructure or equipment (or as soon as practicable after start of use if operational circumstances dictate) by a person trained and competent in the identification of EIH risks.

9. Due to the nature of deployment and operations, safety risk may need to be assessed on a dynamic basis to respond to an immediate or emerging threat. On deployments and operations, there should be a clear and defined risk escalation process for the duty of care through the chain of command.

### **Duty of care requirements for Operational Commander's**

10. When on operations there must be a formal declaration of responsibility placed upon the Operational Commander for determining the Theatre Entry Standards and Operational Job Specifications (which set out the Pre-Deployment Training (PDT) requirements). The Operational Commander is also responsible for the deployment phases and recovery that clearly defines the arrangements for managing the duty of care for those personnel involved and those affected by their activities and actions.

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<sup>2</sup> Normally Security Policy & Operations Current Commitments (SPO CTS), especially if for a named operation under a CDS Directive.

<sup>3</sup> Normally PJHQ J3.

<sup>4</sup> Normally one of the single Services but could also be UKStratCom for some Force Elements.

<sup>5</sup> Normally Commander Joint Operations (CJO).

<sup>6</sup> Including Command IEs and Safety Centres, Defence Medical Services, or Defence Regulators.

11. The Operational Commander has the delegated authority to own the operational risk and move outside of the defined operating envelope only where there is an operational imperative to do so. The Operational Commander must communicate any intent to move outside the operating envelope up through the operational chain of command and to the Force Generating chain of command (or Duty Holder where applicable). In exceptional and unforeseeable operational circumstances where it is not possible or proportionate to refer the matter up through the Force Generating chain of command (or Duty Holder where applicable), the Operational Commander must record and subsequently report their decisions up through the Force Generating chain of command or Duty Holder at the earliest opportunity.

12. The Operational Commander holds a duty of care to all personnel within their area of responsibility for the period they are assigned Operational Control (OPCON).

### **Duty of care requirements for the person who has been appointed to take charge of authorised training exercises within the UK or overseas**

13. When on authorised training exercises within the UK or overseas there must be a formal declaration of responsibility placed upon the individual who has been appointed to take charge of the exercise. The delegated responsibility will include managing the duty of care for those personnel involved in the exercise and those affected by their activities and actions for the duration of the exercise to which they are assigned and to manage within the defined operating envelope.

### **Duty of care for Force Generating Commands**

14. Force Generating Commands must provide Deploying Organisations with written assurance that all personnel are sufficiently trained and equipped for the intended and declared activities and are informed of any operating constraints that should be understood while assessing risk.

15. Force Generating Commands must be able to demonstrate that personnel are sufficiently trained and equipped in preparation for the reasonably foreseeable risks associated with the conduct of any activities required by any planned and declared activity. Delivery and assurance of PDT is the responsibility of the Force Generating Command, assurance must be conducted in accordance with JSP 815 Volume 2 Element 12.

### **Duty of care of Tasking Authority and Deploying Organisations**

16. The Tasking Authority and Deploying Organisations must provide the Force Generating Commands with a clear description of intended and declared activity of Units or individuals they require to be deployed. For complex capability requiring Duty Holder risk management, the safe operating envelopes are to be indicated and processes for risk tolerance agreed.

17. Those persons responsible for the deployment of personnel must demonstrate that those being deployed are competent and appropriately briefed, trained and equipped in preparation for any intended and declared activity. Deploying Organisations must provide Force Generating Commands with appropriate assurance that all reasonably foreseeable safety risks to deployed personnel have been assessed and the specified mitigation and control measures are in place and communicated to all personnel to be deployed.

18. Where the Deploying Organisation has an operational imperative to use the deployed personnel beyond the intended and declared safe operating envelope, their Duty of Care responsibility must include the assessment of any additional risk from the activity and advise the Force Generating Command how this increased requirement and additional mitigation measures may be balanced. Where the Force Generating Command has judged such a risk not to be ALARP and tolerable this must be escalated in line with the Force Generating Command's escalation process to provide direction on action as appropriate which might involve anything from treatment, to transfer, to cessation, as appropriate.

19. Deploying Organisations should be able to demonstrate that:

- a. effective mechanisms are in place to provide Force Generating Commands with a clear description of intended and declared activity;
- b. the operational safety risks from undertaking the intended and declared activity have been identified, assessed, allocated to an appropriate owner and are managed to be ALARP and tolerable;
- c. effective mechanisms are in place to make sure that where there is an operational imperative to use the deployed personnel beyond the intended and declared activity, that Force Generating Commands are consulted on how any additional risk will be mitigated; and
- d. effective mechanisms are in place for assuring Force Generating Commands that risks from deployed locations are ALARP and tolerable.

20. Those persons who authorise the deployment of personnel should be able to demonstrate that the personnel to be deployed are competent and appropriately briefed, trained and equipped in preparation for any intended and declared activity. Persons authorising the deployment of personnel should be able to demonstrate that the Deploying Organisation has assurance that those deployed are appropriately trained and equipped, documenting any operating constraints that should be understood when assessing risk.

### **Duty of care in Joint Commands**

21. Where the tasking is across multiple commands or uses capabilities from different Services, the Force Generating Commands must retain their duty of care and responsibility for their deployed Force Elements through assurance from the Joint Deployed Commander that risks are being managed to ALARP. The OPCON and Tactical Control (TACON) must be specified within tasking orders and responsibilities (including the duty of care) must be agreed during the force estimating process.

22. Joint Commands should be able to demonstrate to the Force Generating Commands the impact on deployed personnel of the operational risk appetite. Identification of the control or tolerance to the risk should be formally recorded through the operational directive. Where the Force Generating Command has judged such a risk not to be ALARP and tolerable, then this requires action which may involve anything from treatment, to transfer, to cessation, as appropriate.

## **Duty of Care of persons controlling premises or establishments**

23. The Head of Establishment or the Commanding Officer whether they are within or outside the UK must take all reasonable steps to make sure all safety risks on deployed work premises are ALARP and tolerable and compliant with UK or Host Nation law.

24. Overseas the Head of Establishment or the Commanding Officer are to make sure adequate information and instruction is supplied to those under their command, visitors and lodgers using the premises or persons who may be adversely affected by the operation of those premises. This must apply to both temporary and permanent accommodation provided as part of work premises.