



Ministry
of Defence

JSP 769

**Zero Tolerance to Sexual
Exploitation and Abuse**

Version 1.0 Jul 2022

Foreword

People lie at the heart of Defence operations and capabilities. The vast majority of Defence's people behave appropriately and create an inclusive environment for all of us to thrive in when serving our country. Defence people usually operate with the highest standards of behaviours when representing our country both in the UK and overseas but, regrettably, there are times when a small number of people behave in an unacceptable way. What constitutes unacceptable behaviour must be understood by all Defence people, it should be challenged and appropriate action must be taken.

As part of this, Defence has a zero-tolerance approach to Sexual Exploitation and Abuse (SEA). SEA runs contrary to the values and standards of Defence and can undermine our credibility and effectiveness, and impact operational successes. Furthermore, Defence people must not cause harm to populations we engage with in the course of our duties. Joint Service Publication (JSP) 769 outlines acts and behaviours that constitute SEA and provides a framework for the prevention, reporting and handling of allegations of SEA. It is the authoritative policy and guidance on SEA behaviours and contains direction on processes to be followed for all Defence people.

SEA will not be tolerated and, in line with the new *Zero Tolerance to Sexual Offences and Sexual Relationships between Instructors and Trainees* policy, those who breach this policy will face dismissal. To reinforce these policies, we are developing a new Service offence.

We all have a role to play in preventing and reporting instances or allegations of SEA, whether these have been witnessed or are suspected. This JSP directs the baseline standards and actions for all Defence people when it comes to SEA. It ensures that Defence people operate with legitimacy, are a force for good and that employee behaviour is lawful, appropriate and professional.

Lieutenant General James Swift
Chief of Defence People
Functional Owner for Defence People

Preface

How to use this JSP

1. JSP 769 provides direction and guidance for the reporting and handling of allegations of SEA. It is designed to be used by all Defence people both to enable individuals to gain awareness of SEA and how to report instances, as well as for those responsible for dealing with allegations.
2. This JSP provides the direction that must be followed in accordance with legislation or policy mandated by Defence or on Defence by Central Government, and the guidance and best practice that will assist the user to comply with the direction.

Coherence with other Defence Policy and Guidance

3. Where this document contains references to policies, publications and other JSPs which are published by other Functions, these Functions have been consulted in the formulation of the policy and guidance detailed in this publication.

| Related Policy | Title |
|----------------|---|
| JSP 383 | The Joint Service Manual of the Law of Armed Conflict |
| JSP 753 | Regulations for Mobilisation of UK Reserve Forces |
| JSP 763 | Behaviours and Informal Complaints Resolution |
| JSP 770 | Tri-Service Operational and Non-Operational Welfare Policy |
| JSP 822 | Defence Direction & Guidance for Training and Education |
| JSP 830 | Manual of Service Law |
| JSP 834 | Safeguarding |
| JSP 839 | Code of Practice on Services to be provided by the Armed Forces to the Victims of Crime |
| JSP 893 | Procedure for personnel and posts which require a disclosure check. |
| JSP 913 | Whole Force Policy on Domestic Abuse and Sexual Violence |
| JSP 985 | Human Security in Military Operations |
| 2022DIN01-035 | Zero Tolerance to Sexual Offences and Sexual Relationships between Instructors and Trainees |
| MOD | Whistleblowing and raising a concern |
| MOD Main | Misconduct and Discipline Policy and Procedures |
| MOD Main | Handling Arrests, Charges, Police Cautions & Convictions |
| DE&S | Managing Unacceptable Behaviour Policy |
| DE&S | Standards, Conduct and Discipline Policy |

Further Advice and Feedback – Contacts

4. The owner of this JSP is People-Sec-DCCL; for further information or advice on any aspect of this publication or to provide feedback on the content, contact:

| Job Title | Email | Telephone |
|--------------------|-------|-----------|
| People-Sec-DCCL-C1 | | |

Abbreviation Table

| Abbreviation | Meaning |
|---------------------|---|
| AFA 06 | Armed Forces Act 2006 |
| AOC | Air Operations Command |
| AOR | Area of Responsibility |
| CDT | Conduct and Discipline Team (UN) |
| CO | Commanding Officer |
| CoC | Chain of Command |
| CONDO | Contractors on Deployed Operations |
| CRSV | Conflict Related Sexual Violence |
| CSSD | Civilians Subject to Service Discipline |
| DDC | Directorate of Defence Communications |
| DNH | Do No Harm |
| EAPC | Euro-Atlantic Partnership Council |
| FP | Focal Point |
| HIV | Human Immunodeficiency Virus |
| HMG | Her Majesty's Government |
| LOC | Land Operations Command |
| LM | Line Manager |
| MOC | Maritime Operations Command |
| MOD | Ministry of Defence |
| NAP | National Action Plan |
| NATO | North Atlantic Treaty Organisation |
| OIC | Officer in Command |
| OIOS | Office of Internal Oversight Services |
| PEP | Post Exposure Prophylaxis |
| PJHQ | Permanent Joint Headquarters |
| PK | Peacekeeping |
| PSVI | Preventing Sexual Violence Initiative |
| SEA | Sexual Exploitation and Abuse |
| sS | Single Service |
| SJC | Standing Joint Command |
| SJS | Service Justice System |
| SOA 2003 | Sexual Offences Act 2003 |
| SPA | Service Prosecuting Authority |
| SQEP | Suitably Qualified, Experienced and Trained Personnel |
| STTT | Short Term Training Team |
| UK | United Kingdom |
| UN | United Nations |
| UNSCR | United Nations Security Council Resolution |
| VAWG | Violence Against Women and Girls |

Glossary

| | |
|---------------------------|---|
| Accountability | Refers to measures taken to acknowledge, assume responsibility for, and remedy violations of international humanitarian and human rights law, policies, rules and regulations, mission-specific regulations. |
| Civilian employees | Individuals directly employed by Defence who do not form a part of the Service component. |
| Complainant | A person who makes an allegation of misconduct committed by a member of Defence but whose claims have not yet been established. A complainant may be a victim, witness or any other person who is aware of the misconduct. |
| CONDOS | Contractors Deployed on Operations are civilian personnel supporting the force (primarily employees of UK MOD Contractors) and comprise of UK nationals, third country nationals and locally recruited workers from the country in which the MOD is operating ¹ . |
| Defence people | Service personnel or any other person employed by or acting on behalf of Defence. |
| Do No Harm (DNH) | The basis of DNH is to ensure careful consideration of our presence and actions is given so no harm is done intentionally or unintentionally. Failure to understand how our presence interacts with the wider environment in which we are working, and seeking to avoid or mitigate negative impacts, our efforts can end up harming more than benefitting those we are trying to help. |
| Local civilians | Staff employed locally to support Defence activity but who are not directly working for or contracted to Defence. |
| Perpetrator | A person who commits an act of SEA. |
| Safeguarding | <p>Protecting adults' rights to live in safety free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adults' wellbeing is promoted, including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action².</p> <p>The MOD has adopted the definition of safeguarding and promoting the welfare of children as laid out in <i>Working Together to Safeguard Children (2018)</i> as protecting children from maltreatment; preventing impairment of children's health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; taking action to ensure all children have the best outcomes³.</p> |

¹ JSP 567 - Contractor Support to Operations.

² Care Act 2014: <https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>.

³ Working Together to Safeguard Children (2018): <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>.

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| Service personnel | Members of the regular and reserve forces. |
| Sexual abuse⁴ | Any actual or threatened intrusion of a physical nature. |
| Sexual exploitation⁵ | Any actual or attempted abuse of a position of trust or differential power for sexual purposes. |
| Sexual violence | Acts of a sexual nature against one or more persons or that cause such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent. |
| Relevant Force Generating Authority | Organisations with responsibility for the deployment or posting of people on any Defence activity. |
| Transactional sex⁶ | The exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour ⁷ . |
| Unequal power dynamics | A power imbalance which exists between those who are vulnerable, disempowered and voiceless, and those who have power over them and may act as gatekeepers to money, food, shelter and security ⁸ . Where unequal power dynamics exist, victims may feel obliged and under pressure to carry out sexual. |
| Victim-Centred Approach | An approach in which the survivor ⁹ 's dignity, experiences, considerations, needs, and resiliencies are placed at the centre of the process, from the initial program design to investigating and responding to potential incidents. |
| Victim of SEA | For the purposes of this JSP, a victim is a person who is, or has been, sexually exploited or abused by Defence people to whom this JSP is applicable. |

⁴ A detailed definition may be found at para 4.1.b.

⁵ A detailed definition may be found at para 4.1.a.

⁶ A detailed definition may be found at para 4.2.b.

⁷ United Nations Glossary on Sexual Exploitation and Abuse:

https://hr.un.org/sites/hr.un.org/files/SEA%20Glossary%20%20%5BSecond%20Edition%20-%202017%5D%20-%20English_0.pdf. A wider definition may be found at para 4.3.

⁸ [Sexual exploitation and abuse in the aid sector \(parliament.uk\)](https://www.parliament.uk/committees/hc-subcommittees/sexual-exploitation-and-abuse-in-the-aid-sector).

⁹ 'Victim' is a term often used in the legal and medical sectors, while the term 'survivor' is generally preferred in the psychological and social support sector to a person who has experienced sexual or gender-based violence because it implies resilience. The term victim will be used throughout this JSP for consistency.

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Policy Statement

Sexual Exploitation and Abuse is unacceptable. Defence considers this to be grounds for termination of employment and/ or the discharge from the Armed Forces.

1. Defence is committed to upholding standards of behaviour that are lawful, appropriate and professional. SEA runs contrary to the values and standards of Defence and can undermine our credibility and operational effectiveness. Failure to maintain personal and professional standards may damage team cohesion and lead to failures on operations.
2. Complementary to the Defence Zero-Tolerance on Sexual Offending policy¹⁰, Defence takes a zero-tolerance approach to SEA. In practice, this means that SEA is prohibited and that every alleged transgression will be acted upon through prompt and efficient investigation. It may result in administrative, disciplinary or criminal action, as appropriate¹¹.
3. Defence is committed to preventing, investigating and holding to account those Service personnel and civilian employees who commit SEA. This document:
 - a. sets out Defence's zero-tolerance stance on SEA and how that is implemented in practice.
 - b. ensures our people understand the standards and behaviours expected of them, are able to recognise breaches of these standards and know how to report incidents of SEA.
 - c. identifies leadership and management responsibilities.
 - d. directs efforts to prevent and address violations of SEA committed by any Service personnel and civilian employees acting on behalf of Defence.
 - e. outlines appropriate assistance and redress that is available to victims of SEA.
4. Some types of SEA should not only be perceived as a conduct and discipline issue but should also be understood as a violation of basic human rights and may be a form of Conflict Related Sexual Violence (CRSV), both of which trigger protection and safeguarding measures.

¹⁰ 2022DIN01-035 - Zero Tolerance to Sexual Offences and Sexual Relationships Between Instructors and Trainees.

¹¹ See also the Defence policy on Zero-Tolerance to Sexual Offending and Unacceptable Behaviours.

1 Introduction

Background

1.1 SEA involves sexual activity where there is an imbalance of power¹². SEA is endemic in many countries, especially where there is conflict and forced displacement. A recent House of Commons report gives examples of this type of behaviour by employees of aid agencies and peacekeepers stretching back nearly twenty years and reaching across geographic and organisational boundaries¹³. SEA is characterised by the status of the alleged transgressor and the organisation to which they belong when they engaged in the criminal activity, exploitation or abuse¹⁴. The international community have recognised the magnitude of its impact and have taken collective action towards addressing it. Increased demands have been placed on those operating in the international environment to ensure that their activity is conducted in a manner that promotes and defends human rights and empowers and protects women, girls, men and boys against sexual and gender-based violence (SGBV)¹⁵. This includes protection against SEA.

1.2 The underlying causes of SEA are commonly based on gender inequality, discrimination and patterns of violence against women, men, boys and girls. The extreme imbalance of power between those in Defence, on the one hand, and the people who they have been sent to help and protect, results in a risk that Defence people will exploit their position of power for sexual gain. It is therefore essential that robust systems are in place to ensure that the work of our organisation is beyond reproach. SEA can contribute towards modern slavery and human trafficking by driving demand for sex workers, further destabilising communities and increasing conflict. Defence people have a personal responsibility to conduct themselves in a way that does not result in SEA taking place.

1.3 JSP 763 describes the core behaviours expected within Defence, as well as those that are unacceptable. Behaviours which amount to SEA are also incompatible with the values and standards that are expected of all members of Defence. SEA inflicts intolerable harm on victims and their families, and those who commit such offences or prohibited acts betray the trust placed in them. Defence has therefore taken decisive action to put in place mechanisms for preventing and responding to SEA, as well as to ensure accountability for such behaviour.

¹² A full definition may be found in ppara 4.1.

¹³ House of Commons International Development Committee - Sexual exploitation and abuse in the aid sector - Eighth Report of Session 2017-19:

<https://publications.parliament.uk/pa/cm201719/cmselect/cmintdev/840/840.pdf>.

¹⁴ ICAI - Literature review: Conflict related sexual violence and sexual exploitation and abuse, 30 Sep 20:

<https://icai.independent.gov.uk/html-version/psvi-2/>.

¹⁵ This terminology does not address those who do not identify with a particular gender but is taken from accepted definitions in order to recognise that each of these cohorts is affected by sexual violence in different ways.

2 Applicability

Applicability of the Policy

2.1 This policy is applicable to all Defence people who are overseas working or carrying out any other activity on behalf of Defence: this includes members of the regular forces, reserve forces¹⁶ and civilians who are employed by Defence¹⁷.

2.2 Defence people represent the United Kingdom (UK), the MOD and, in the case of Service personnel, their Service. Defence people must therefore comply with this policy at all times when outside of the UK¹⁸ for the purpose of working or carrying out activities on behalf of Defence. This includes evenings, weekend and periods of leave when taken in the country in which they are working or stationed.

2.3 This policy does **not apply**:

- a. to sexual activity or relationships between Defence people: note 2022DIN01-035¹⁹ provides direction on unacceptable sexual behaviours in the armed forces more widely and may still apply.
- b. in the UK. UK law and Chain of Command (CoC) oversight are deemed sufficient to mitigate potential harms and ensure that Defence people's right to a private life is not unduly restricted.
- c. to family members and dependants of Defence people²⁰.
- d. to SEA committed by other Forces or nations, however this should be reported through an appropriate CoC.
- e. to sub-contractors and locally employed staff. However, all efforts should be made to ensure such staff do not undertake harmful behaviour and they know that any misconduct will be dealt with appropriately.

2.4. While the policy is not intended to apply in the UK or during periods of personal leave outside of the UK²¹, if Defence people use their position within Defence to undertake activity defined as SEA and/or where such activity may or does bring Defence into disrepute, this will be dealt with under existing policy²².

¹⁶ This policy will only apply to reservists when they are subject to Service law see s367 Armed Forces Act 2006.

¹⁷ This includes CONDOs when they are CSSD.

¹⁸ For the purposes of this policy the UK includes British Overseas Territories, The Isle of man and Crown Dependencies (Guernsey and Jersey).

¹⁹ Zero Tolerance to Sexual Offences and Sexual Relationships between Instructors and Trainees.

²⁰ While family members and dependants are not in scope of this policy, if they are designated as CSSD and commit an offence or behave in an unacceptable way they may be dealt with through the Service Justice System. CSSD are defined in Volume 1, Chapter 3 of the Manual of Service Law (JSP 830).

²¹ With the exception of leave taken in the country in which the staff member is stationed or undertaking work as per para 2.2 above.

²² Such as a breach of the Service Test.

Rationale

2.5 Defence people perform a unique role; at home they protect our people and territories and overseas Defence supports the HMG National Security Strategy playing a vital role in projecting the UK's global influence and promoting British values and interests. Defence people are stationed around the world performing essential tasks such as stopping terrorism, keeping sea lanes open and delivering humanitarian aid. In this context, Defence people are frequently placed in positions where there is an imbalance of power between them and those they have been sent to help and protect.

2.6 The wide applicability of this policy to the country in which a member of Defence is based or stationed for a Defence activity is taken due to the harms or potential harms that may be visited upon highly vulnerable people. The environments in which Defence people routinely operate are often high-risk and can be hostile, further enhancing the power imbalance with those they are trying to protect and assist. Even in low-risk environments, there is potential for Defence people to come into contact with persons who have been coerced or trafficked and are therefore subject to an imbalance of power. All of the above may undermine Defence and UK Government objectives in that country and have a detrimental impact on operational effectiveness and projecting the UK's global influence.

3 Legal and Strategic Frameworks

International Frameworks

3.1 **United Nations (UN).** The United Nations Security Council Resolutions (UNSCRs) related to SEA require UN member states to report criminal conduct, to investigate wrongdoing, to deliver training, to protect the rights of victims and enforce command led accountability²³. SEA is prohibited by the UN Staff Regulations and Rules pursuant to the UN Secretary General Bulletin ST/SGB/2003/13 on Special Measures for Protection from SEA. UN member states commit to holding personnel and leadership accountable for proper conduct through supporting the UN zero-tolerance policy on all forms of SEA²⁴, and have a particular duty of care towards women and children²⁵. More recently the UN's Circle of Leadership, of which the British Prime Minister is a Member²⁶, has signed up to the UN's Voluntary Compact on SEA. The UN voluntary compact is a demonstration of political will and intended to send a signal to the world of a joint commitment and mutual accountability on the part of the United Nations and Member States on preventing and addressing SEA²⁷. In practice, this means that an effective response must be undertaken following a report of possible misconduct and that appropriate disciplinary action must be taken against perpetrators²⁸. The UK is aligned with the Inter-Agency Standing Committee's Six Core Principles on Protection from SEA²⁹ and holds the pen on Women, Peace and Security (WPS) within the UN Security Council³⁰.

3.2 **NATO.** NATO is committed to the principles of individual liberty, democracy, human rights and the rule of law³¹. The NATO Code of Conduct requires that all staff act with integrity, loyalty, accountability and professionalism³². The NATO/ EAPC WPS Action Plan³³ highlights the principles of integration, inclusiveness and integrity. The North Atlantic Council endorsed NATO's Policy on Preventing and Responding to SEA. SEA runs counter to NATO's principles and core values, undermines the effectiveness and credibility of the alliance and risks mission success. NATO therefore takes a zero-tolerance approach to all acts of SEA³⁴. As a member of NATO, the UK is committed to adhering to and implementing NATO's SEA Policy³⁵.

²³ UNSCR 2436 (2018), UNSCR 2272 (2016); General Assembly Resolutions A/Res/71/278, A/Res/62/214, A/Res/62/63, A/Res/61/267B and A/Res/59/300.

²⁴ Action for Peacekeeping - Declaration of Shared Commitment on UN Peacekeeping Operations, 2017.

²⁵ Pursuant to Section 7 of the Secretary-General's bulletin ST/SGB/1999/13, entitled *Observance by United Nations forces of international humanitarian law*.

²⁶ <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/circle-leadership>.

²⁷ [Voluntary Compact | Preventing Sexual Exploitation and Abuse](#).

²⁸ [Response | Preventing Sexual Exploitation and Abuse \(un.org\)](#).

²⁹ <https://psea.interagencystandingcommittee.org/update/iasc-six-core-principles>.

³⁰ The penholder role refers to the member of the Council that leads the negotiation and drafting of resolutions on a particular Council item.

³¹ Preamble, North Atlantic Treaty and Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation, adopted by Heads of State and Government at the NATO Summit in Lisbon (2010).

³² [code-of-conduct.pdf \(nato.int\)](#).

³³ NATO/ EAPC Women, Peace and Security Action Plan 2018.

³⁴ [NATO - Official text: The NATO Policy on Preventing and Responding to Sexual Exploitation and Abuse, 20 Nov 2019](#).

³⁵ https://www.nato.int/cps/en/natohq/official_texts_173038.htm.

National Frameworks

3.3 The UK's National Action Plan (NAP) on WPS defines the UK's standards for its military, political and humanitarian contributions to operations, and through building the capacity of international partners³⁶. The UK leads on the Preventing Sexual Violence Initiative (PSVI)³⁷ which makes clear that the UK is committed to demonstrating the highest possible standards of protection for women and girls, including the eradication of SEA. It has implemented a Violence Against Women and Girls (VAWG) initiative which confirms that ending violence against women and girls is a top priority for the UK Government³⁸. The UK has a National Safeguarding Strategy³⁹ which supports a victim-centred approach, and is committed both to improved training to prevent SEA as well as to ensuring appropriate action is taken against perpetrators⁴⁰. Defence is a signatory to the UK Strategy Safeguarding Against SEA in the Aid Sector⁴¹ and supports the UK's Approach to the Protection of Civilians⁴².

Defence Legal and Policy Framework

3.4 Some SEA activity is already a criminal offence or Service offence. Defence people should therefore be familiar with the following:

- a. **Service Justice System (SJS).** The SJS, under the Armed Force Act 2006 (AFA 06) has the jurisdiction to consider any offences, whether criminal or non-criminal conduct, that may be committed by Persons Subject to Service Law and Civilians Subject to Service Discipline. Where SEA amounts to a Service or criminal offence, established SJS mechanisms will be followed⁴³. Sexual offences can be prosecuted in the SJS wherever they take place and offenders are liable to the same punishments as if they were prosecuted in the civilian courts in the UK;
- b. Relevant Service disciplinary offences under AFA 06 include disobedience to a lawful command (s12); contravention of standing orders (s13); conduct prejudicial to good order and discipline (s19) and disgraceful conduct of a cruel or indecent kind (s23);
- c. For Service personnel behaviours which constitute SEA may constitute a breach of the Service Test or 2022DIN01-035 and result in administrative action, including discharge. For civilian employees, behaviours may breach the misconduct policy and result in dismissal. For civilian employees (MOD main) where SEA occurs and amounts to a criminal offence, the *Handling Arrests, Charges, Police Cautions and Criminal*

³⁶ HMG, UK National Action Plan on Women, Peace and Security 2018-2022, January 2018: [FCO1215-NAP-Women-Peace-Security-ONLINE_V2.pdf \(publishing.service.gov.uk\)](#).

³⁷ [About us - Preventing Sexual Violence in Conflict Initiative - GOV.UK \(www.gov.uk\)](#).

³⁸ [7.114+SG:37+Ending+Violence+against+Women+and+Girls+Strategy+-+2016-2020,+HM+Government.pdf \(squarespace.com\)](#), [Violence Against Women and Girls \(VAWG\) strategy 2021 to 2024: call for evidence - GOV.UK \(www.gov.uk\)](#).

³⁹ [Safeguarding strategy 2019 to 2025: Office of the Public Guardian - GOV.UK \(www.gov.uk\)](#).

⁴⁰ Statement by Lord (Tariq) Ahmad of Wimbledon at the Security Council open debate on Women, Peace and Security: Conflict-related sexual violence: <https://www.gov.uk/government/speeches/putting-survivors-first-when-combatting-conflict-related-sexual-violence>.

⁴¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916516/Safeguarding-Strategy-10092020.pdf.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916516/Safeguarding-Strategy-10092020.pdf.

⁴² <https://www.gov.uk/government/publications/uk-paper-on-the-approach-to-protection-of-civilians-in-armed-conflict/uk-approach-to-protection-of-civilians-in-armed-conflict>.

⁴³ Dealt with in accordance with JSP 830.

Convictions policy and procedures will apply. For non-criminal conduct the *Misconduct and Discipline Policy and Process* applies.

d. **UK Criminal Justice System (CJS).** SEA activity may be an offence under the general criminal law of the UK, particularly as some of these offences apply outside the UK (e.g. offences under the Sexual Offences Act 2003 (SOA 03) that apply outside the UK under s72 of that Act). Some sexual offences committed outside the UK can be prosecuted in the civilian criminal courts in the UK as well as in the SJS. They may be referred to a UK civilian police force for investigation.

e. **Local law.** SEA may amount to a criminal offence in the country in which it takes place. Consequently, an alleged case of SEA may give rise to concurrent jurisdiction between the CJS, SJS and local jurisdiction. The issue of who can assert primacy or exclusivity of jurisdiction, including who is best placed to investigate and prosecute, may depend on the terms of an international agreement (such as a Status of Forces Agreement), a non-legally binding Memorandum of Understanding or Protocol. Defence people engaging in SEA anywhere in the world may still commit a Service offence even if the behaviour may be regarded as lawful under the local laws of a country in which the person is deployed.

f. **Safeguarding obligation.** Specific safeguarding obligations exist for Defence people in the UK and overseas, these are laid out in JSP 834.

g. **2022DIN01-035 - Zero Tolerance to Sexual Offences and Sexual Relationships between Instructors and Trainees Policy.** This sets out what unacceptable sexual behaviour is and the consequences of such behaviour.

4 Definitions and Behaviours

Acts that constitute SEA

4.1 SEA is used in this policy as an overarching term that describes both criminal behaviour and other types of conduct which is exploitative or abusive. It is defined as⁴⁴:

a. **Sexual exploitation.** Any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes including, but not limited to, profiting monetarily, socially or politically from the exploitation of another⁴⁵. Acts that constitute sexual exploitation include, but are not limited to, the exchange of money, goods or other commodities and or services, employment or any exchange of assistance that is due to the local population in exchange for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour. All such transactional sex is a form of sexual exploitation. Sexual relationships based on inherently unequal power imbalances are a form of sexual exploitation⁴⁶.

b. **Sexual abuse.** Any actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. Acts which constitute sexual abuse include but are not limited to any action or behaviour of a sexual nature that coerces, threatens or forces a person to engage in sexual activity.

4.2 Prohibited conduct may amount to a criminal offence, a Service offence or misconduct which justifies disciplinary procedures or administrative action being taken. The following is not exhaustive but provides a guide to the nature of behaviours which offend against this policy.

a. **Sexual offences.** The references to sexual offences in this definition of SEA are to conduct which is a sexual offence under the general criminal law of England and Wales (or would be if it took place there). The majority of these offences are set out in the SOA 03 and include:

- (1) rape and other forms of sexual assault.
- (2) child sex offences (including sexual activity with a person under 16).
- (3) abuse of a position of trust.
- (4) soliciting in a street or public place.
- (5) inciting prostitution.
- (6) paying for the sexual services of a sex-worker who has been coerced using force or other exploitative conduct.

⁴⁴ Taken from the UK Strategy: Safeguarding Against Sexual Exploitation and Abuse and Harassment within the Aid Sector:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916516/Safeguarding-Strategy-10092020.pdf.

⁴⁵ Special measures for protection for protection from sexual exploitation and sexual abuse, 9 Oct 2003; International Development Select Committee Announcement No 45 - Report Publication: Progress on tackling sexual exploitations and abuse of aid beneficiaries, 14 Jan 21.

⁴⁶ A definition of unequal power dynamics may be found in the Glossary.

b. **Transactional sex.** This means paying or offering to pay for sex or other sexual activity including payment in kind e.g. with goods or other commodities, services, employment or other assistance. It includes the provision of assistance or aid of any kind, including food, clothing or lodging in exchange for sexual favours or threatening to withhold assistance or aid of any kind in exchange for sexual favour. It includes the procuring of transactional sex for others. Sexual acts in this context include but are not restricted to sexual intercourse, sexual penetration or sexual touching.

Other potentially harmful behaviour

4.3 **Sexual activity with a person under 18.** Sexual activity with a person under the UK age of consent will constitute a crime under UK law⁴⁷ and SEA. This will be the case even if the age of consent in the country concerned is lower than it is in the UK (and the age of consent will vary by country and in some places within a country). Within the UK the age at which consent for sexual activity may be given is normally 16⁴⁸ but it rises to 18 when a person holds a position of trust over another⁴⁹. On any UN mission, a child is defined by the UN as being anyone under the age of 18. It is incumbent on all Defence people to know the relevant age of consent in the place in which they seek to engage in sexual activity, and to be aware that regardless of that age that British law on age of consent will continue to apply. The local law on age will apply if higher than British law. Mistaken belief in the age of a child or their consent may not be a viable defence⁵⁰. Further information may be found in the Statutory Guidance 'Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children'⁵¹.

4.4 **Gateway behaviours.** Caution should be exercised when it comes to 'gateway behaviours' such as visiting strip clubs, brothels or known red-light districts: whilst being there might not in itself be SEA, these are places where SEA could well occur as they are linked to transactional sex. In addition, such premises may be staffed by people who have been trafficked or coerced, there may be close links to organised crime groups (OCG's) and Defence people who visited these places put themselves in situations in which their security may be at risk. Defence people are to be aware of these risks and take positive steps to ensure that their behaviour does not contribute to unlawful or harmful activity or be seen to endorse behaviour by other which would breach of this policy.

Behaviours this policy does not apply to

4.5 The policy does not apply to Lawful relationships formed between those over the UK age of consent provided these are not transactional, exploitative or abusive in nature.

Rationale

4.6 Where on assignment or duty, Defence people are expected to act in accordance with UK and local law. They should conduct themselves with professionalism and in a way that is befitting of those representing Defence and the UK. Defence people will routinely be in a

⁴⁷ S9 and S72 Sexual Offences Act 2003.

⁴⁸ Sexual Offences Act 2003, s9.

⁴⁹ Sexual Offences (Amendment) Act 2000.

⁵⁰ Special measures for protection from sexual exploitation and sexual abuse, 9 Oct 2003:

<https://www.unhcr.org/uk/protection/operations/405ac6614/secretary-generals-bulletin-special-measures-protection-sexual-exploitation.html>.

⁵¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942454/Working_together_to_safeguard_children_inter_agency_guidance.pdf.

powerful position relative to others, and this must not be abused for personal benefit. The behaviours outlined above may be harmful, unlawful, bring Defence people into proximity with unlawful activity or organised crime, place Defence people at risk from a medical or security perspective and may bring Defence and the UK into disrepute. For these reasons the above behaviours are prohibited.

4.7 Transactional sex is specifically included in this policy because the use of sex workers will frequently be exploitative. It can damage relations with host states and local communities and may damage the UK's standing more generally. In operational environments this may make the local population hostile which can impact the safety and operational effectiveness of UK forces. Sex workers are frequently trafficked, coerced or underage and often have links to organised crime (including in states where sex work is regulated). The use of sex workers, especially when operating in unlawful establishments, leave Service persons vulnerable to becoming targets of blackmail, hostile action or criminals. Sex working, either the buying or selling thereof, may be unlawful in a territory or part of a territory. There are associated offences such as kerb crawling, paying for sexual services from someone who has been trafficked or coerced (this is strict liability offence) or paying for the sexual services of a child which are unlawful, and which apply to Service personnel worldwide under Service law.

Guiding questions

4.8 The policy will always apply to alleged behaviour meeting the following criteria:

- a. the alleged behaviour occurred outside of the UK and in a country in which the member of Defence people was there for the purpose of conducting activity on behalf of Defence; and
- b. the alleged behaviour is sexual in nature; and
- c. the alleged behaviour is:
 - (1) criminal; or
 - (2) exploitative; or
 - (3) abusive; or
 - (4) transactional in nature (see para 4.2 b).

4.9 Where the victim was over the age of 16 but under the age of 18 at the time of the offence and the person subject to complaint was in a position of trust over them legal advice should be sought to confirm whether the behaviour is Criminal.

5 Consequences of SEA

Consequences of SEA for victims

5.1 SEA can have immediate and long-term negative impacts on the physical, emotional and mental health and wellbeing of victims. This can include but is not limited to:

- a. post-traumatic stress disorder, especially to those who may have already experienced CRSV.
- b. depression, anxiety and physical injury.
- c. unplanned pregnancy.
- d. sexual health issues and the spread of sexually transmitted diseases, including to people who may not have access to treatment.
- e. stigmatizing victims within their community and placing them at risk of ostracization, loss of employment, isolation and increased vulnerability.
- f. reinforcing harmful economies based on 'survival-sex' and contributing to Human Trafficking and Organised Crime.

Consequences of SEA for the subject of complaint

5.2 The consequences for a person subject to complaint of SEA if found guilty are likely to be severe including the following:

- a. **Criminal record.** Investigation will follow any allegation of SEA, which may result in criminal proceedings and a criminal record.
- b. **Career implications.** Investigation and subsequent action taken may result in disciplinary or administrative action which may have an effect on the subject of complaints security and/or continued employment.
- c. **Child support.** Should paternity be proven, the parent may be held to account for child support.
- d. **Security.** It may create circumstances in which there is a risk of physical or identity theft, blackmail or espionage. Further information may be found in JSP 440 – The Defence Manual of Security.
- e. **Health.** Regardless of findings of guilt, certain behaviours risk resulting in sexually transmitted diseases.

Note: Regardless of the circumstances, any person who has had unprotected sex of any kind outside of a long-term relationship may be at risk of HIV or an STD. They are strongly urged to seek medical advice. Their report will be treated confidentially by medical staff.

Consequences of SEA for Defence

5.3 The actions of an individual who commits SEA has implications for Defence.

- a. **Operational effectiveness.** Harm is done to the people that Defence people have a moral or legal responsibility to protect⁵². SEA may impact negatively on operational effectiveness including through the repatriation of personnel. Short and long-term damage to relationships with the local population may threaten peace and security, hinder reconstruction efforts and place personnel at risk.
- b. **Reputational effect.** SEA will cause reputational damage to Defence and to the United Kingdom whether the matter is an isolated instance, or widespread and systematic⁵³ and regardless of the outcome. It may also cause damage to bi-lateral and multi-lateral relationships.
- c. **International law violations.** Acts which constitute SEA may constitute a violation of International Humanitarian Law and International Human Rights Law⁵⁴.
- d. **Ongoing assistance.** SEA will be likely to create the need for ongoing victim support at cost to Defence and HMG.

⁵² Protection of civilians is a specified task in certain mandates, and an implied task in others.

⁵³ UNSC S/RES/2272 on UN Peacekeeping Operations, 11 March 2016.

⁵⁴ <https://www.icrc.org/en/document/what-difference-between-ihl-and-human-rights-law>.

6 Organisational Governance and Responsibilities

RESPONSIBILITIES

6.1 The following have specific responsibilities under this policy.

Single Service

6.2 Single Services (sS) are to appoint sS SEA leads.

Responsible sS or Joint Force Generating Authorities, Personnel Centres and Career Managers

6.3 This is defined as those organisations who have responsibility either for the deployment of or posting of people on all Defence activity. These include:

- a. **Strategic Command.** Strategic Command manages overseas joint operations and has responsibility for UK Special Forces.
- b. **PJHQ.** Permanent Joint Headquarters (PJHQ) has responsibility for the deployment of Defence people on:
 - (1) UN deployments.
 - (2) standing operations.
 - (3) D&S Contracts / ES / Project Teams.
- c. **Single Service Operational Commands.** These are:
 - (1) Land Operations Command (LOC).
 - (2) Maritime Operations Command (MOC).
 - (3) Air Operations Command (AOC).
- d. **Standing Joint Command (SJC).** This includes Standing Joint Force elements deployed through SJC.
- e. **Personnel centres and Career Managers.** For all sS.

6.4 **sS or Joint Force Generating Authorities, Personnel Centres and Career Managers are to:**

- a. ensure that appropriate training on SEA is undertaken routinely, in pre-deployment training and prior to deployments or postings. Guidance is at Annex A.
- b. ensure that provisions on SEA are included in relevant orders, guidelines and policy issued to deployable people.

- c. ensure that for 'formed Unit deployments' an empowered Focal Point (FP) is appointed⁵⁵.

Command / Line Management⁵⁶ Responsibility

6.5 Commanders have a responsibility to ensure that personnel under their command know the standards of conduct expected and that they will be held to account if they fail to adhere to those standards. Those in command are to:

- a. understand that SEA may constitute a war crime and those in command have a personal responsibility for taking steps to prevent this. International Humanitarian Law articulates Command Responsibility and Defence's position is set out in JSP 383 – The Joint Service Manual of the Law of Armed Conflict⁵⁷.
- b. create a culture and environment which prevents SEA. They are to conduct a risk assessment at the outset of a command appointment and at the outset of any deployment which should be provided to their HA. Guidance is at Annex B.
- c. appoint an empowered SEA Focal Point in their HQ⁵⁸.
- d. publish on orders that SEA is prohibited. A suggested template is at Annex C, further advice may be obtained from the relevant Legal Advisor.
- e. ensure that their people are aware of the age of consent in the country/ location in which they are based.
- f. understand which establishments in their AOR may contribute to harmful or criminal activity and take appropriate action through education or by placing out of bounds.
- g. publicise complaints mechanisms used by Defence and/or International Organisations and Allies or implement such mechanisms. A template poster may be found at Annex D.
- h. in all cases where Defence people are suspected of SEA, they are to report this immediately to the Service Police⁵⁹.
- i. ensure that civilian employees under their command understand this policy.

Standing Focal Point Committee

6.6 A Standing Focal Point Committee is to be established to readily support the response to allegations of SEA and aid coordination.

⁵⁵ A trained and empowered person is someone who has the rank, appointment and authority along with the necessary training to be able to meaningfully ensure adherence to the policy. This may rest with established J1/ Adj1 roles.

⁵⁶ Or DE&S equivalent.

⁵⁷ https://modgovuk.sharepoint.com/sites/defnet/dinsjsps/DINSJSPS/20110714.1/20130122-jsp383_loac_2004.pdf.

⁵⁸ An empowered person is someone who has the rank, appointment and authority to be able to meaningfully ensure adherence to the policy.

⁵⁹ The Manual Of Service Law requires that CO's report any sexual offending to the Service Police.

- a. This committee shall include representatives from:
 - (1) the relevant sS or Joint Force Generating Authority.
 - (2) sS CoC if a Service person is suspected.
 - (3) Civ HR if a civilian employee is suspected.
 - (4) the relevant in-theatre commander.
 - (5) sS Legal Advisors.
 - (6) AFFS Global Safeguarding Team.
 - (7) Service Police.
 - (8) MOD Human Security (if required).
 - (9) the Joint UN PK Policy Lead (if it is a UN operation).
 - (10) Directorate of Defence Communications (DDC).
- b. This Committee will support the CoC and enable:
 - (1) the in-theatre commander to making informed decisions.
 - (2) a coordinated, coherent and timely communications strategy to be initiated.
 - (3) an appropriate investigation to be tasked.
 - (4) lessons Identified to be captured and centrally held.
- c. This committee will initially be convened through the sS or Joint Force Generating Authority, but any ongoing actions will be coordinated by the CoC / LM of the subject of complaint.

sS Leads

6.7 sS are to nominate SEA leads. They are to:

- a. implement the SEA policy.
- b. ensure that appropriate training on SEA is undertaken and records kept. Guidance is at Annex A.
- c. ensure wider sS policy includes references to SEA where applicable.
- d. ensure that provisions on SEA are included in relevant orders, guidelines and policy.
- e. provide input to internal and external reporting and Freedom of Information requests relating to incidents occurring in their Units under their authority.

Service Police

6.8 The Service Police are to:

- a. appoint a Focal Point for SEA for each Service⁶⁰.
- b. ensure that their personnel are suitably qualified and experienced (SQEP) to investigate SEA⁶¹ (see para 9.7).

Mobilisation Centres

6.9 sS mobilisation centres are to deliver training on SEA to all Individual Augmentees⁶².

Defence Liaison Staffs and Foreign Service Attachés

6.10 Staff are to undertake mandatory training and to ensure that any activity which takes place in their Area of Responsibility (AOR) is compliant with this JSP. They should seek opportunities to promote understanding of SEA to reduce or mitigate harmful behaviours.

Directorate of Defence Communications (DDC)

6.11 DDC are to support ongoing internal SEA communications and be ready to respond to allegations of SEA in the media.

Individual Responsibility

6.12 All Defence people should promptly report any allegations of SEA to the CoC or Service Police and provide full cooperation with any investigation. All Defence people must strive to prevent and report on instances of SEA within their power and authority.

⁶⁰ To include the DCSU once established.

⁶¹ SP already have the required SQEP to investigate sexual offences but will require specific knowledge to understand the implications and responses required when investigating SEA.

⁶² This includes MTMC for the Army and HMS Nelson for the Navy.

7 Prevention of SEA

Screening⁶³

7.1 Screening and risk assessing are required to ensure that people who have a history of sexual offending do not pose a risk when conducting activity on behalf of Defence.

- a. **What must be screened for.** Screening will take place for the following:
 - (1) for Defence people who are on the Violent and Sex Offenders Register.
 - (2) ongoing investigations into sexual offences / inappropriate sexual behaviour.
- b. **Screening responsibilities.**
 - (1) sS are to use established processes to identify which people fall into the above categories' and to risk assess them prior to deployments and postings.
 - (2) Civ HR, DBS, DE&S/SDA Casework Team and the Support to Operations Team (PJHQ) will establish processes to manage and share such information for MOD civilian Employees.
- c. **Exemptions from screening.**
 - (1) Contractors are currently exempt from screening⁶⁴.
- d. **Implications of screening.** If relevant information comes to light, an individual risk assessment must be undertaken, a template is at Annex E. The risk assessment must be provided to the Force Generating Authority approving the activity who may issue a waiver if they believe the risk to be sufficiently low and the operational requirement to be high. Where doubt exists, advice should be taken from Safeguarding leads, formation J1 or CivHR / DE&S / SDA.

Internal Training

7.2 The FCDO training package will be used by Defence people.

- a. All Defence people must undertake training every three years.
- b. Defence people deploying on any Defence task outside of the UK must have undertaken the training within the past 12 months.

International Training and Defence Engagement

7.3 Defence International training and Defence Engagement provides opportunities to raise awareness and prevent SEA and should be included in the following areas:

⁶³ The UN refers to this process as vetting. Defence will use the terminology 'screening' to avoid confusion with security vetting procedures. Implementation of the recommendations of the Special Committee on Peacekeeping Operations, A/75/563/Add.1, 3 Nov 2020.

⁶⁴ The policy applies to them in all other ways.

- a. in train, advise and assist capacity building campaigns.
- b. as part of Short-Term Training Teams' (STTTs) delivery to other nations.
- c. when working with or supporting partner militaries.

7.4. Staff are to note that, in line with 2022DIN01-035⁶⁵, any person in authority having a sexual relationship with a trainee or recruit will be discharged. To reinforce this policy we are developing a new Service offence.

Wider Mitigation Measures

7.5 **Risk assessments.** All approved Defence activity is to include a pre-deployment risk assessment for SEA⁶⁶. This should include Force protection policies to help minimise the potential for SEA to take place including directives on curfews, non-fraternization, alcohol consumption, when the wearing of uniforms is required or prohibited and off-limits locations. Guidance on risk assessments is at Annex B.

7.6. **Welfare facilities.** Welfare and recreational facilities to deployed personnel , including frequent and routine access families and support networks⁶⁷, is strongly encouraged.

7.7 **Communications.** Communications should include internal awareness raising messaging and, where possible, external messaging aimed at the local populations.

Audit of Preventative Mechanisms

7.8 The following will aid the governance of preventative measures:

- a. **Commanders' self-assessment.** This is to take place on HO/TO and annually thereafter and be provided the Higher Authority. A template is at Annex F.
- b. **Personnel Administration Inspections.** Routine administrative inspections must include an inspection on SEA mitigation measures to assure that:
 - (1) a Focal Point has been appointed.
 - (2) risk assessments are in place and up to date.
 - (3) complaints/reporting mechanisms are in place.
 - (4) good practices and lessons learned are captured.
- c. **sS Annual assurance exercise.** To be conducted by the policy owner to assure the measures are in place, provide support and share best practices.

⁶⁵ Zero Tolerance to Sexual Offences and Sexual Relationships between Instructors and Trainees.

⁶⁶ Within the UK, risk assessments are only required for UK based operations.

⁶⁷ JSP 770 - Tri-Service Operational and Non-Operational Welfare Policy.

8 Response to an Allegation of SEA

Response Principles

8.1 The following principles should guide responses to SEA.

- a. **Do no harm (DNH)**⁶⁸. The basis of DNH is to ensure careful consideration is given before acting so that no harm is done intentionally or unintentionally. This does not mean that no action should be taken, but rather that we understand the potential benefits and harms that our interventions may cause and take steps to mitigate such harm. When responding to SEA, Defence people must take all reasonable steps to ensure that inadvertent harm is not caused;
- b. **Victim-centred approach**. A victim-centred approach situates the rights and views of the victims as being central and guides prevention and response. It is a way of engaging with victims that prioritises their needs and systematically focuses on their safety, rights, well-being and expressed choices;
- c. **Cases involving children**. Where a child is or may be a victim of SEA, decisions made regarding the prevention and response to SEA must take into account the best interests of the child⁶⁹;
- d. **Safeguarding of vulnerable people**. Where vulnerable people have been identified, advice must be sought to ensure that appropriate support is in place⁷⁰;
- e. **Confidentiality**. Certain information is legally protected and may not be shared. Allegations of SEA must be treated with the highest degree of confidentiality to ensure that the identity of victims, complainants, witnesses, representatives and the subject of complaint are protected. Where any concerns about data sharing arise, legal advice should be sought.

Reporting Mechanisms

8.2 Reporting mechanisms should be safe, confidential, accessible and widely communicated. Where possible local communities should be consulted on their preferred options to report, and an analysis undertaken as to what means would be effective for that population including for children⁷¹. These mechanisms must consider the vulnerability of victims and how intimidating it may appear to them to report directly to the Force⁷². Where a crime has been committed it may be reported to civilian police. Reporting may otherwise take place through the CoC, Service Police or through the Confidential Hotline for whistle blowing and raising a concern as below:

Telephone: 0800 161 3665 (STD) or +44 1371 85 4881 (Overseas)

⁶⁸ [GSDRC CS topic guide.pdf \(publishing.service.gov.uk\)](#); [Girls Education Challenge: Do no harm policy \(publishing.service.gov.uk\)](#).

⁶⁹ [Layout 1 \(unicef.org.uk\) Working Together to Safeguard Children 2018 \(publishing.service.gov.uk\)](#), [Tackling Child Sexual Abuse Strategy 2021 \(publishing.service.gov.uk\)](#).

⁷⁰ The Service Police and Safeguarding Team may be able to assist. In-country where a local context is key, FCDO staff may be able to provide a view.

⁷¹ JSP 834 sets out the procedure for reporting concerns relating to children.

⁷² To include hotlines, email addresses, local points of contact.

Email: Confidential-hotline@mod.gov.uk

Online: [Confidential Hotline Reporting Form](#)

On UN operations alleged prohibited activity may be reported through:

- a. the Conduct and Discipline Team (CDT).
- b. the office of the Force Provost Marshal.
- c. the Office of Internal Oversight (OIOS).
- d. the UN Confidential hotline: +1 212 963 1111 (24hrs a day).

Protection of Whistleblowers and those raising a concern⁷³

8.3 Whistleblowers and those raising a concern are protected by law⁷⁴. While the relevant Acts do not apply to the MOD, Defence has in place policies to protect whistleblowers, including those who speak up about SEA⁷⁵.

- a. Defence people who report an allegation must be protected from victimisation⁷⁶. Where it is found a malicious report has been made appropriate action will be taken.
- b. External advice and support for whistle blowers must be available and known to Defence people. Confidential advice may also be obtained through Citizens Advice⁷⁷.

Immediate Action

8.4 An immediate actions Aide Memoire is at Annex G.

- a. **Reporting.** All allegations of SEA must be reported immediately to the Service Police. They should also be reported to the CoC or LM for civilian employees.
- b. **Removal from duty or activity.** Where there is a credible allegation of SEA, there should be a presumption that the subject of complaint must be immediately removed from the location in which the alleged prohibited activity occurred to protect all parties involved. Those in command or the LM may apply discretion where a compelling reason exists, and such action is taken in accordance with any existing sS or MOD policy. When seeking to retain a person in their post or location, appropriate guidance must be taken from sS J1 staff. The overarching principle guiding decision making must be whether any future harm may be committed by the subject of complaint and, positive action is required. Prior to any such removal, the Service Police (and where appropriate civilian police) must be consulted to ensure this will not prejudice their investigations. The Focal Point Committee and J1 community may assist in such decision making.

⁷³ Criminal accountability of United Nations officials and experts on mission A/C.6/75/L.X ss 9: [Whistleblowing and raising a concern \(publishing.service.gov.uk\)](#).

⁷⁴ Employment Rights Act 1996; Disclosure Act 1998.

⁷⁵ <https://modgovuk.sharepoint.com/sites/defnet/HOCS/Pages/Whistleblowing-and-raising-a-concern.aspx>.

⁷⁶ Protection against retaliations for reporting misconduct and for cooperating with duly authorised audits or investigations, 28 Nov 2017, ST/SGB/2017/2/Rev1.

⁷⁷ <https://www.gov.uk/whistleblowing>.

- c. **Medical support.** If the incident is recent and the victim known, immediate consideration must be given as to whether the victim requires medical care⁷⁸. This may only take place with the consent of the victim. It is not necessary that medical support is provided by members of Defence, only that the victim is signposted to or provided with support locally. The subject of complaint may also need to seek medical care and should be encouraged to do so.
- d. **Victim support.** Victims may require immediate support such as shelter from their family/ community if they are at risk of serious repercussions. It is not necessary that this support is provided by members of Defence, only that the victim is signposted to or provided with support locally.
- e. **Support to all parties involved in SEA.** An accusation of SEA is likely to be distressing to those subject to complaint, to those who report it and to those who may have witnessed it. The CoC or LM for civilian employees must put in place mechanisms for the safeguarding and support of all parties.
- f. **Aftercare Incident Report (AIR).** An AIR must be completed when an individual is deemed responsible for a security breach deemed to be Serious or Gross. An AIR prompts United Kingdom Security Vetting (UKSV) in consultation with the single Service Vetting Authority/DSR to consider the security implications of the individual concerned⁷⁹.

Investigations which take place in the SJS

8.5 All allegations of SEA must be reported to the Service Police⁸⁰ who can triage the case and refer to civilian police, CO or LM as appropriate. The Service Police are impartial and independent and are not duty bound to investigate all allegations⁸¹.

8.6 **Non-Criminal Conduct.** Some types of SEA may not be criminal in nature, but may breach standing orders, bring the MOD into disrepute or do irreparable damage to the working relationship between the employee and the MOD. Non-criminal conduct which the Service Police do not pursue should be referred back to the CoC or LM to take forward any disciplinary or employment related processes.

8.7 **Investigative skill sets.** It is vital that investigators understand the requirement for confidentiality and that in certain circumstances victims of SEA may face potentially life-threatening consequences if their circumstances become known. Service Police should be familiar with the following:

- a. the 'do no harm' principle.
- b. understandings of 'consent' in contexts where unequal power dynamics may impact on fully informed consent.
- c. that in certain contexts sharing information with host nation police forces or witnesses may pose a risk to the victims of SEA.

⁷⁸ Recent is defined as being less than 14 days prior. Medical care should include sexual and reproductive health and, if reported within 72 hrs, HIV Post Exposure Prophylaxis (PEP) may also be required.

⁷⁹ Further information may be found in JSP 440 - The Defence Manual of Security.

⁸⁰ Criminal accountability of United Nations officials and experts on mission A/C.6/75/L.X ss 9.

⁸¹ s115a AFA 06.

- d. victims may face retribution if their circumstances become known. All information regarding complainants, victims, survivors, witnesses and persons subject to complaint must be treated with the utmost confidentiality.
- e. that an interpreter of a particular sex may be necessary.
- f. that recorded statements may provide best evidence as they may be used as evidence-in-chief in proceedings if victims are unable to attend in person.
- g. that additional consideration must be given to the rights of a child⁸² and that those with expertise in dealing with children are engaged.

8.8 Service Prosecuting Authority (SPA). Where the Service Police carry out an investigation into criminal offences arising out of SEA, early engagement with SPA must be sought from the Rape and Sexual Offences and Domestic Abuse Specialist Prosecutor, including over evidence and any measures to ensure the continued support of complainants and witnesses and their welfare.

Conclusion of Investigation in the SJS

8.9 Where undertaken by the Service Police, the outcome of any investigation is to be referred either to the Service Prosecuting Authority, the CO or LM.

8.10 For Service persons a finding of SEA having been committed should initiate administrative action and there will be a general presumption of discharge - any exceptions must be approved at 2* level. However, if sexual offences have been committed 2022DIN01-035⁸³ will apply. For civilian employees, the staff member may be deemed to have committed gross misconduct and again there will be a presumption of discharge and exceptions must be approved at 2* level. Legal advice must always be sought in relation to the individual's circumstances and employment rights.

⁸² <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

⁸³ Zero Tolerance to Sexual Offences and Sexual Relationships between Instructors and Trainees.

9 Victim Care and Support

Victims

9.1 UN Support for and protecting the rights of victims. The Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by the UN General Assembly in 1985 established norms of access to justice and fair treatment, restitution, compensation and assistance⁸⁴. The UN has set up an Office of the Victims' Rights Advocate⁸⁵ and a system wide Trust Fund to support UN and non-UN entities and organisations that provide victim assistance and support services. This includes medical care, legal services, psycho-social support, community outreach and support and communications for complainants⁸⁶.

9.2 Defence support for and protection of the rights of victims. Defence recognises the importance of providing expeditious support for, and the protection of, the rights of victims of SEA⁸⁷. This includes ensuring that victims of SEA are made aware of available assistance and support⁸⁸ which may be locally provided. Details on Victims Services may be found in JSP 839⁸⁹.

9.3 Principles of providing assistance and support⁹⁰.

- a. Assistance and support must be made available to victims irrespective of whether they themselves initiated a complaint or are cooperating with an investigation.
- b. Assistance and support must be victim-centred, age, disability-and gender sensitive, non-discriminatory and culturally appropriate.
- c. Assistance provided to victims must 'do no harm' and be provided in a manner which seeks to uphold their rights, dignity and well-being. This may entail provision of safety measures to protect against retaliation, re-victimization and re-traumatization. The rights of victims to privacy, confidentiality and informed consent in respect of assistance shall be respected.

9.4 Victims' rights⁹¹. Victims' Rights are drawn from the Ministry of Justice Code of Practice for Victims of Crime in England and Wales⁹².

⁸⁴ UNGA, 'Declaration of basic principles of justice for victims of crime and abuse of power', A/RES/40/34, 29 Nov 1985.

⁸⁵ <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/office-victims-rights-advocate>.

⁸⁶ Progress on tackling the sexual exploitation and abuse of aid beneficiaries, Seventh Report of Session 2019-21, 14 Jan 21.

⁸⁷ Criminal accountability of United Nations officials and experts on mission A/C.6/75/L.X ss 12.c.

⁸⁸ Criminal accountability of United Nations officials and experts on mission A/C.6/75/L.X ss 26. The UN Victims Right Advocate has initiated a pilot project to map assistance and services to victims of sexual exploitation and abuse across 13 key countries where UN agencies operate.

⁸⁹ <https://modgovuk.sharepoint.com/sites/defnet/HOCS/Documents2/JSP839.pdf>.

⁹⁰ United Nations Protocol on the Provisions of Assistance to Victims of Sexual Exploitation and Abuse, 12 Dec 2019.

⁹¹ The above rights may be limited where the victim and their family reside in a country other than the UK.

⁹²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974376/victims-code-2020.pdf.

10 Lessons and Repository

Lessons Identified

10.1 Lessons should be captured through:

- a. **Investigations.** Lessons identified should be highlighted to the policy owner.
- b. **J1 Audits.** Lessons identified and good practices should be highlighted to the policy owner.
- c. **Formal Lessons.** Lessons should be captured through existing processes.
- d. **Assurance and advisory visits.** The policy owner will conduct annual assurance and advisory visits to sS leads.

Central Repository

10.2 The Service Police, Secretariats, DBS and the DE&S/SDA Casework Team shall maintain a record of all cases under this policy including their disposal.

Annex A - Mandatory SEA Training

1. **Approved training.** The approved training package is based on the FCDO training. It is one package that is designed to raise awareness of SEA, promote a range of measures to combat it, understand the impact of SEA on victims and the consequences for Defence people who commit SEA. The modules below provide the relevant awareness:

- a. understand what SEA is.
- b. understand your role and responsibilities.
- c. have confidence in managing risks.
- d. expectations the UK Government has of implementing partners on safeguarding against SEA.

The link to the training is:

To follow.

2. **Additional resources.** Safeguarding Resource and Support Hub (RSH)⁹³ supports organisations to strengthen their safeguarding policy and practice against SEA. The Hub offers an online open-access searchable platform bringing together quality assured guidance, tools, support and research. The Hub is also a repository for SEA safeguarding materials, much of which has been developed in recent years in response to high profile SEA cases within the aid sector. The link to the training is:

<https://safeguardingsupporthub.org/training/prevention-sexual-exploitation-and-abuse-psea>

3. **Civilian employee training.** Civilian employees are to undertake SEA training in advance of an overseas posting and undertake all mandatory training as described in the Summary of Mandatory Training document. All training activity is to be recorded on MyHR. Line managers are responsible for ensuring mandatory training takes place.

4. **CONDO training.** Designated Officers and Supervising Officers for CONDO must ensure they have received the necessary training in advance of any deployment.

5. **Recording of training.** Training competencies exist on MyHR and JPA to record mandatory training. The competency/mandatory learning names are:

- a. MyHR. To follow.
- b. JPA. To follow.

6. **Training repository.** Approved training materials will be held on a centralised portal owned by the Defence Safeguarding Team on Defence Net.

⁹³ <https://safeguardingsupporthub.org/what-rsh>.

Annex B - SEA Risk Assessment – Commanders' Guidance

1. The risk assessment is a tool to aid professional judgement and does not replace it. It is essentially subjective and depends heavily on the Command-led understanding of the unique context in which Defence activity is taking place.
2. It is not necessary to create a stand-alone risk assessment and relevant risks may be captured on existing risk assessments and registers. JSP 375 outlines the Defence approach to undertaking a risk assessment.
3. Risk assessments should be accompanied by a workplan to mitigate and monitor the risks identified. The following risk factors are associated with SEA⁹⁴:
 - a. commanders' lack of awareness of the operational environment and factors that contribute to the risk of SEA.
 - b. commanders tolerating conditions that could contribute to SEA.
 - c. lack of vigilance in commanders in monitoring routine activity of their troops.
 - d. insufficient pre-deployment and in-mission training on SEA.
 - e. inadequate compliance with the policy.
 - f. lack of accountability for breaches of the policy.
 - g. non-adherence to existing reporting procedures.
 - h. failure to report acts of SEA or discouraging others from reporting.
 - i. encouraging or facilitating informal settlements when SEA is alleged to have occurred.
4. Table 1 below provides a non-exhaustive outline of low, medium and high-risk factors pertaining to SEA. The greater the amount and level of risk factors present, the greater the mitigation measures required to respond.
5. Table 2 below provides potential mitigating measures for risk factors.

⁹⁴ Military Aide Memoire, United Nations Measures Against Sexual Exploitation and Abuse: Commanders' guide on measures to combat Sexual Exploitation and Abuse in United Nations Military, August 2017: https://www.un.org/preventing-sexual-exploitation-and-abuse/sites/www.un.org/preventing-sexual-exploitation-and-abuse/files/the_military_aide_memoire_united_nations_measures_against_sexual_exploitation_and_abuse.pdf.

| Table 1 – Risk factors for SEA | | | |
|---------------------------------------|--|---|--|
| | Low risk | Medium risk | High risk |
| People | <ul style="list-style-type: none"> • Teams with direct oversight by senior staff. • No contact with local civilians. • Short deployments with limited civilian contact. • Effective training with compliance monitored. • Good understanding of the reporting procedures and access to reporting procedures. • Cultural attitudes that frown upon transactional sex between local civilians and military staff. • Effective role models. • Direct access to an empowered SEA FP. | <ul style="list-style-type: none"> • Small teams with junior command. • Limited contact with local civilians. • Short deployments with some civilian contact. • Low awareness of the policy or lack of training. • Lack of knowledge of reporting procedures or poor access to complaints mechanisms. • Cultural attitudes that tolerate transactional sex between local civilians and military staff. • Lack of role models. • Periodic access to an empowered SEA FP. | <ul style="list-style-type: none"> • Singleton posts. • Frequent direct contact with civilians. • Long deployments with frequent civilian contact. • Lack of SEA pre-deployment training coupled with lack of awareness of the SEA policy. • Fear of reporting. • Cultural attitudes that encourage transactional sex between local civilians and military staff. • Poor role models. • Lack of empowered SEA FP. |
| Places/ context | <ul style="list-style-type: none"> • Well developed economies with high employment. • Established populations with limited movement. • Bases wholly removed from civilian populations. • Places with a limited sex industry or OOB areas. • Places where alcohol use is controlled. • Places with little contact with unsupervised minors. • Where Defence people are accommodated in Defence bases with controlled access. | <ul style="list-style-type: none"> • Areas of poverty which staff have limited access to. • Displaced populations sited away from Defence people. • Occasional contact with civilian populations. • Open commercial sex industry. • Places where alcohol use is somewhat controlled. • Places with occasional access to unaccompanied minors. • Where Defence people are in shared private accommodation. | <ul style="list-style-type: none"> • Poor economic situations including food shortages and limited access to employment. • Displaced populations in proximity to Defence people in search of protection. • Close proximity of bases to civilian residential areas and private hire of local staff (e.g. cleaners). • Brothels in proximity to base / location / ships. • Places where there are no bounds to alcohol use. • Places with frequent contact with minors who are unaccompanied. • Where Defence people are in private single accommodation. |
| Activity | <ul style="list-style-type: none"> • Short term non-military activity such as sports tours or staff rides with CoC/ LM oversight. | <ul style="list-style-type: none"> • Defence activity where free time is not undertaken near civilian locations. | <ul style="list-style-type: none"> • Exercises/ operations/ activity where free time is undertaken in civilian areas. |

| Table 2 - SEA Risk factor mitigation measures | | |
|---|---|--|
| Ser | Factor | Mitigation |
| 1 | Junior staff in post with limited access to senior CoC/LM. | <ul style="list-style-type: none"> • Ensure they understand their responsibilities and the harms incurred through SEA. • Require that they complete a work plan to mitigate SEA. • Require routine reporting on mitigation measures to CoC. |
| 2 | Singleton posts | <ul style="list-style-type: none"> • Undertake frequent, unannounced visits. • Require training to be undertaken more frequently. • Establish preventative measures (curfews, off limits locations). |
| 3 | Frequent contact with civilians | <ul style="list-style-type: none"> • Limit the amount of time in contact with civilians / rotate through high-risk locations. • Ensure CoC oversight. • Require specific reporting on civilian contact. • Ensure contact is in working hours and in uniform/ put in place a curfew. • Limit alcohol use around civilians. • Ensure local civilian key leaders understand Defence's position. |
| 4 | Prolonged deployments | <ul style="list-style-type: none"> • Rotate staff through remote locations. • Avoid prolonged periods in direct contact with civilians. |
| 5 | Low awareness of the policy | <ul style="list-style-type: none"> • Conduct audits of the training to ensure understanding. • Reinforce the policy through orders and posters. • Include briefings/updates during routine conferences with subordinates. |
| 6 | Lack of knowledge of reporting procedures | <ul style="list-style-type: none"> • Reinforce the reporting mechanisms through orders and posters. |
| 7 | Fear of reporting | <ul style="list-style-type: none"> • Ensure that anonymous reporting mechanisms are known. • Ensure staff are informed of a trusted staff member to whom they can report. • Create a culture in which reporting is encouraged. |
| 8 | Cultures which tolerate the use of transactional sex workers | <ul style="list-style-type: none"> • Appoint a trusted 'champion' to convey the message about the harms that may occur. |
| 9 | Cultures which encourage the use of transactional sex workers | <ul style="list-style-type: none"> • Ensure that senior leadership make clear their stance on the policy. • Ensure that staff are aware of the implications, including dismissal. |
| 10 | Lack of or poor role models | <ul style="list-style-type: none"> • Appoint a senior and trusted staff member role model appropriate behaviour. |
| 11 | Poor economic situations | <ul style="list-style-type: none"> • Promote training to understand the harmful economies created. |
| 12 | Displaced populations | <ul style="list-style-type: none"> • Rotate staff through postings with proximity to displaced persons. |
| 13 | Bases and accommodation in proximity to civilian areas | <ul style="list-style-type: none"> • Curfews, walking out policies, alcohol policies and OOB. |
| 14 | Proximity to minors | <ul style="list-style-type: none"> • Ensure staff understand the age of consent. • Seek to limit time that staff have in contact with minors. |

Annex C - Template for Orders on SEA

The following is a template which may be used when publishing orders directing that SEA is prohibited.

SEXUAL EXPLOITATION AND ABUSE (SEA)

All staff are to comply with JSP 769 which directs that SEA is prohibited as it is damaging to victims and brings Defence into disrepute. Those who commit SEA may face dismissal from Her Majesty's Forces.

Key points to note are:

1. Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes. This includes, but is not limited to, the exchange of money, goods or other commodities and or services, employment or any exchange of assistance that is due to the local population in exchange for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour.
2. Sexual abuse is defined as any actual or threatened physical intrusion of a sexual nature. Acts which constitute sexual abuse include but are not limited to any action or behaviour of a sexual nature that coerces, threatens or forces a person to engage in sexual activity.
3. When undertaking Defence activity outside of the UK, Defence people are prohibited from undertaking transactional sex at all times. This includes evenings, weekends and periods of leave when taken in the country in which they are working or stationed. Transactional sex means paying or offering to pay for sex or other sexual services including payment in kind, e.g. with goods or other commodities, services, employment or other assistance.
4. Sexual activity with a person under the UK age of consent will constitute a crime and SEA. Under UK law, the age of consent is 16, but this rises to 18 when a person holds a position of trust over another⁹⁵. In (*insert country*) the age of consent is (*insert age*⁹⁶). UK law always takes primacy unless the age of consent is higher in the place in which the Service person is operating.
5. The following places are out of bounds (*insert places*).
6. Regardless of the circumstances, any person who has had unprotected sex of any kind outside of a long-term relationship may be at risk of HIV or an STD. They are strongly urged to report to the medical services. Their report will be treated with confidentiality.

⁹⁵ Sexual Offences (Amendment) Act 2000.

⁹⁶ Where the age of consent in a local context is below 16, the UK age of consent must be published as applying.

Annex D - SEA Poster




Ministry
of Defence

Speak out against Sexual exploitation and abuse

Your actions keep your team and the public safe,
both in the UK and abroad.

Report suspected sexual abuse or exploitation now to:

- The Service Police on 02392285 170/80
- Confidential hotline (UK) on 0800 161 3665
- Confidential hotline (overseas) on +44 1371 85 4881
- Your Chain of Command or Line Manager
- Your SEA Focal Point
- Complete the '[Confidential hotline form](#)'

Review the 1-page summary by [date], or
scan the QR code to read the full policy.

Insert
QR
code

Annex E - Staff Risk Assessment

OFFICIAL - SENSITIVE (WHEN COMPLETE)

| TEMPLATE RISK ASSESSMENT FOR DEFENCE PEOPLE WHO HAVE A HISTORY OF OFFENDING | | | |
|--|---------------------|--|---------------------|
| Unit/ Department | Number | Name | Date |
| | | | |
| Defence Activity | Dates of deployment | Role on deployment | Deployment location |
| | | | |
| Offence type | Offence date | Sanction applied | Remarks |
| | | | |
| Risks that this creates | | Mitigation measures to be put in place | |
| | | | |
| Does the commander believe the mitigations above will sufficiently manage the risks? | | | |
| Is the individual recommended to deploy? | | | |
| Has a waiver by the relevant Force Generating Authority been issued? | | | |

OFFICIAL - SENSITIVE (WHEN COMPLETE)

Annex F - Commanders' Self-Assessment

| Ser | Issue | Remarks |
|-----|---|---------|
| 1 | Is there a SEA Risk Assessment in place? | |
| 2 | When was the SEA Risk Assessment last updated? | |
| 3 | Is there a trained and empowered focal point in place? | |
| 4 | Have all staff received training? | |
| 5 | Is the SEA prohibition clearly set out in Orders? | |
| 6 | What supporting policies are in place? | |
| 7 | Are the means to report widely publicised? | |
| 8 | Are reporting POC nominated and publicised? | |
| 9 | When was the last media campaign undertaken? | |
| 11 | When was the media campaign last reviewed? | |
| 12 | Are there any behaviours or areas of concern to be aware of? If so, what action has been taken? | |
| 13 | Are there any best practices to be shared? If so, has this been shared? | |
| 14 | Are there areas that should be out of bounds and have these been placed out of bounds? | |
| 15 | Has the level of risk of 'Gateway behaviours' been assessed and are measures in place to mitigate such risks? | |

Annex G - Immediate Actions / Aide Memoire for Reporting

| Ser | Action to be taken sequentially | Responsibility | Completed |
|-----|--|--|-----------|
| 1 | Have the Service Police been informed? | Senior officer in theatre/ OIC* / relevant Force Generating Authority (FGA) | |
| 2 | Has the senior officer in theatre been informed? | OIC | |
| 3 | Has the subject of complaint been removed from the location where the prohibited behaviour is alleged to have happened? | OIC | |
| 4 | Have medical provisions for the victim and subject of complaint been sought? | OIC | |
| 5 | Has the sS or Joint Force Generating Authority been informed through the Watchkeeper? | Senior officer in theatre/ OIC | |
| 6 | Has the FCDO/ Embassy been informed? | Senior officer in theatre/ OIC through DA or FGA | |
| 7 | Have CivHR/ the DE&S/SDA Casework Team been informed if the subject of complaint is a civilian employee? | Senior officer in theatre/ OIC | |
| 8 | Have the members of the Standing Committee been informed? | Relevant Force Generating Authority | |
| 9 | Have the Safeguarding Team been informed? | OIC | |
| 10 | If deployed with the UN, has the CDT been informed? | Senior officer in theatre/ OIC | |
| 11 | If deployed with the UN, have the UKPKO Team been informed? | Relevant Force Generating Authority | |
| 12 | Has a decision been made on repatriation of the subject of complaint? | OIC/CO of the subject of complaint | |
| 13 | Have support mechanisms been implemented to safeguard the individual subject to complaint? | CO | |
| 14 | Has an Aftercare Incident Report (AIR) been completed (if an individual is deemed responsible for a security breach deemed to be Serious or Gross) | CO | |
| 15 | Have media LTT been compiled? | DCC | |

*OIC refers to the Officer in Command of the subject of complaint.