



Ministry
of Defence

JSP 815

Element 5: Supervision, Contracting and Control Activities



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Amendment record

This chapter has been reviewed by the Directorate for Defence Safety (DDS) together with relevant subject matter experts and key Safety stakeholders. Any suggestions for amendments should be sent to COO-DDS-GroupMailbox@mod.gov.uk.

Version No	Date Published	Text Affected	Authority
1.0	Dec 22	BETA version for consultation	Dir HS&EP
1.1	7 Jun 23	Final version	DDS
1.2	10 Sep 24	Annual revision and combined element and assurance framework	DDS

Terms and definitions

General safety terms and definitions are provided in the [Master Glossary of Safety Terms and Definitions](#) which can also be accessed on [GOV.UK](#).

Must and should

Where this element says must, this means that the action is a compulsory requirement.

Where this element says should, this means that the action is not a compulsory requirement but is considered good practice.

Introduction

1. This element provides the direction that must be followed and the guidance and good practice that should be followed and will assist users to comply with the expectations for supervision, contracting and control activities that are set out in this Element.

Purpose and expectations

2. This element will assist Defence organisations to implement safe systems of work to control activities and to meet their legal duty of care requirements. Defence organisations are to have arrangements for the application of these safe systems of work that include the supervision of all the workforce and contractors. Defence organisation senior leaders are to have effective frameworks in place to ensure that they have sufficient and timely oversight of their organisation and its supply chain using the four Cs (coordination, co-operation, communication and control). This should also apply to Duty Holding where there is a credible and reasonably foreseeable Risk to Life (RtL) and where other statutory arrangements are considered to be inadequate.

Safe Systems of Work

3. All activities across Defence must be conducted within the elements of a Safe System of Work (SSW). The SSW must be in place for activities undertaken by all those employed by Defence (military or civilian) as well as those working on behalf of Defence (for example, contractors). It applies to all Defence activities carried out in any location (UK or overseas). JSP 375 Chapter 8 sets out the requirements for all activities in Defence to be conducted within a Safe System of Work.

Duty of Care

4. Duty of care is a legal concept whereby individuals are owed, and owe, an obligation to ensure that they and others do not suffer any reasonably foreseeable harm. Under the Health and Safety at Work etc Act 1974 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.

5. The statutory duties are often bound by geographical location, application will usually be restricted to the UK but the common law duty is often driven by the nature of the relationship between the person who owes the duty and the person to whom it is owed. As such the common law duty of care owed by Defence will apply irrespective of the location of Service personnel, civil servants and others (e.g., cadets, contractors or visiting personnel) who undertake activities under the auspices of Defence or may be affected by such activities.

6. Under their duty of care, those responsible for the control of Defence activities have a duty to mitigate risk to ALARP and tolerable and also have the authority to pause or cease activity where a risk is no longer ALARP and tolerable. Risk mitigation and tolerability are covered in more detail in Element 4 of this JSP.

7. The duty of care extends to operations and exercises in the UK and overseas and whilst on deployments. Full details of the duty of care requirements on deployments can be found at Annex C to this JSP.

8. All Defence organisations who sponsor or are accountable for Defence activities conducted in their area of responsibility (AoR) must be able to:
- a. demonstrate that UK arrangements for H&S are applied so far as reasonably practicable;
 - b. in addition, respond to host nation's relevant H&S expectations; and
 - c. demonstrate that the H&S arrangements, so far as is reasonably practicable, afford all personnel undertaking Defence activities at least the same level of protection from work related hazards as would be afforded to them if they were undertaking the activity in the UK.

Duty Holding

9. Duty Holding¹ was introduced following the Nimrod Review² initially in the aviation domain but is now applied across all Defence domains. Where Duty Holding is applied to an activity, it does not replace the duty of care held under law but enhances that duty of care held by the SofS, Defence organisations senior leaders and those formally appointed as Duty Holders. Full details on Duty Holding requirements on deployments can be found at Annex C to this JSP.

10. The principle of Duty Holding is to establish a clear and simple organisational construct of trained and accountable individuals who are competent and empowered to manage safety risks across the spectrum of military activities³ where it has been decided that Duty Holding applies.

11. Duty Holding must be applied for military activities that the Defence organisation's most senior leader considers:

- a. are justified and present a credible and reasonably foreseeable Risk to Life (RtL)⁴; and
- b. the Duty of Care, or other statutory arrangements and/or the control of risks are considered to be inadequate and require enhanced safety management arrangements; or
- c. are mandated through regulation.

12. Defence organisations must maintain a record of all activities to which they have decided to apply Duty Holding other than those mandated by regulation and make that record available as part of the assurance process (set out in Element 12 of this Vol 2) or upon request by senior Defence leaders (for example the Secretary of State (SofS), Permanent Secretaries, Dir DS or DG DSA).

¹ Duty Holding in Defence should not be conflated with duty holding as outlined in the HSWA74.

² Haddon Cave Nimrod Review.2009.

³ Military activities - Are those that can be directly or indirectly linked to military outputs and are at the discretion of the Service Chief or the Defence organisation's senior leader.

⁴ Risk to Life (RtL) - Is where the outcome of an activity has a high probability of resulting in a fatality. (People should only be exposed to risk of harm where a clearly defined benefit is expected and where the risks are adequately planned and controlled).

The Duty Holding construct

13. The fundamental elements of Duty Holding management arrangements are that there are three levels of accountable individuals for managing risk where a Duty Holding framework has been applied. They are the: Senior Duty Holder (SDH), Operating Duty Holder (ODH) and Delivery Duty Holder (DDH). When appointed, a MOD Duty Holder is responsible for the safe conduct of activities within their AoR by ensuring that RtL is ALARP and Tolerable. Defence organisations must set out the Duty Holder construct for their organisation in their SEMs.

14. The SofS for Defence requires that the Defence organisation's most senior leader is appointed as the Senior Duty Holder (SDH) and is ultimately accountable for RtL for the military activities for which that senior leader has decided to apply Duty Holding. The SDH is formally appointed by letter from the Permanent Secretary and has right of access to the Permanent Secretaries and the SofS in exceptional circumstances. In addition to their legal responsibilities the SDH is personally accountable for ensuring that an effective SMS is resourced and implemented for any activity which has a Duty Holding framework applied. The SDH must be able to demonstrate:

- a. why Duty Holding has been applied to a military activity to supplement Duty of Care arrangements;
- b. that arrangements are in place to enable any Duty Holder to stop activities in the event that RtL is no longer considered to be ALARP and tolerable;
- c. that the risk escalation criteria is proportionate and appropriate to their area of responsibility and the escalation and acceptance of RtL is being effectively managed; and
- d. that accountable individuals have been appointed as ODHs and DDHs.

15. If a SDH considers that a risk from a military activity cannot be mitigated so that it is ALARP and tolerable they have the delegated authority to stop those activities and to inform the Second Permanent Secretary and refer it to the SofS⁵. Where a risk has a pan-Defence or cross-cutting impact this must also be raised to the Defence Safety and Environment Committee (DSEC). Defence organisations should consult with Dir DS and where appropriate DG DSA before raising safety issues to the DSEC.

16. The SDH must formally appoint the ODH(s) through a letter of appointment which must be formally accepted, the SDH will also set the level of risk that can be held by the ODH and DDH. The SDH or the ODH must formally appoint the DDH(s) through a letter of appointment which must be formally accepted.

17. The ODH and/or DDH must be able to demonstrate that:

- a. they have the ability to manage the RtL within their defined AoR⁶;
- b. they have direct access to their superior DH;

⁵ In an operational context, it may not be possible for the Duty Holder to stop the activity if it is critical to delivering an essential operational effect.

⁶ This includes the financial authority to prioritise resource within their AoR to deliver safe outcomes.

- c. they are suitably qualified and experienced to undertake their Duty Holding responsibilities;
- d. there is adequate safety management in place that considers Duty Holding and ensures ALARP and tolerable outcomes when managing RtL;
- e. all Duty Holder Facing organisations have been identified and arrangements are in place for the effective identification and management of RtL; and
- f. RtL risks can be readily escalated when required.

18. All Duty Holders who have been in post for more than 3 months should be able to demonstrate that they hold a valid DSA approved [Generic Duty Holders Course](#) certificate; and those with less than 3 months in post should be able to demonstrate that appropriate action has been taken to attend a DSA approved Generic Duty Holders Course within 3 months of appointment. The course content includes demonstrating a clear understanding of the purpose of the Duty Holder role, specific hazards, safety risks and the technical understanding required for the role.

19. The ten principles of Duty Holding are set out in Table 1 as follows:

<p>Principle 1 - Duty Holding must be applied for military activities that the Defence organisation's most senior leader considers are justified and present a credible and reasonably foreseeable RtL; and the Duty of Care, or other statutory arrangements and/or the control of risks are considered to be inadequate and require enhanced safety management arrangements; or are mandated through regulation.</p>
<p>Principle 2 - Duty Holders are to be appointed at 3 levels: Senior Duty Holder (SDH), Operating Duty Holder (ODH) and Delivery Duty Holder (DDH). These positions do not have to sit within the chain of command.</p>
<p>Principle 3 - Duty Holders are to be competent and adequately prepared for Duty Holding, by means of formal training, in order to understand and discharge their responsibilities and accountabilities.</p>
<p>Principle 4 - Duty Holding is not rank related and Duty Holders are to have direct access to a superior Duty Holder.</p>
<p>Principle 5 - Duty Holders are to be empowered through letters of appointment.</p>
<p>Principle 6 - Duty Holder responsibility, accountability and budgetary power (on behalf of the SofS) for the activity are to be aligned, to ensure RtL is mitigated to ALARP and Tolerable. Where this may not be possible for organisational reasons, the SDH must ensure that Duty Holders have the necessary influence to allow the mitigation of the RtL.</p>
<p>Principle 7 - Duty Holders must have the authority, if appropriate⁷, to pause or cease activities within an Operating Envelope where an operating risk is no longer ALARP and Tolerable.</p>
<p>Principle 8 - Where a Duty Holder is unable to mitigate a RtL to both ALARP and Tolerable, a mechanism must exist for it to be escalated up the Duty Holder chain.</p>

⁷ In an operational context, it may not be possible for the Duty Holder to stop the activity if it is critical to delivering an essential operational effect.

Principle 9 - Duty Holders must always retain their responsibilities for deployed Force Elements (FEs). These FEs are owed a Duty of Care by the Operational Commander.

Principle 10 - Organisations that support Duty Holders by providing platforms, equipment (DE&S) and infrastructure (DIO) that are designed, manufactured and maintained to be 'safe to operate', or services supporting the mitigation of RtL, are recognised as Duty Holder-facing.

Table 1. The Ten Principles of Duty Holding

Duty Holder Facing organisations

20. A Duty Holder Facing organisation is any organisation whose activities and decisions could affect the ability of a Duty Holder to mitigate associated RtL so that they are ALARP and Tolerable. This includes but is not restricted to: providers of support and facilities; Financial / Military Capabilities (Fin/Mil Cap); Defence Equipment and Support (DE&S); Defence Infrastructure Organisation (DIO); and other Defence enabling organisations.

21. Duty Holder Facing organisations are responsible for assuring Duty Holders that equipment, platforms and infrastructure are safe to use by providing evidence in safety cases or equivalent safety evidence and/or providing the necessary support to Duty Holders, e.g., building regulatory compliance, in service (safety and compliance) inspections & assurance procedures.

22. Duty Holder Facing organisations are to report to the Duty Holder any failures to meet agreed safety criteria and agree a plan with the Duty Holder and be able to confirm that the associated risk has been mitigated to a level assessed as ALARP and tolerable. Safety and the acquisition of equipment is covered in more detail in JSP 376.

Accountable Person

23. An Accountable Person is generally the person whose terms of reference state that they are responsible for making sure there are suitable and sufficient systems in place to control safety risks in their establishment, unit, or platform. The term 'accountable person' can sometimes be used in place of or to describe a Head of Establishment (HoE), Officer Commanding (OC), Station Commander and so on, which are all terms used by Defence organisations. However, generally those with safety responsibilities for Defence establishments are referred to as the HoE. Once appointed, all HoEs (or equivalent) should demonstrate that they have accepted their role and understand the associated responsibilities, to meet and support safety objectives.

24. Roles and responsibilities should be clearly outlined within job descriptions and terms of reference (ToRs). Defence organisation personnel should be made aware of who has delegated authority on a timely basis, and any changes made. This includes communicating how to manage potential overlapping risks, and co-ordination across Defence organisations. Further detail on the HoE safety responsibilities are covered in Annex D to this JSP.

Contracting

25. Where Defence Contractors undertake work or provide services directly in support of Defence activities, they are to comply with relevant safety legislation, the requirements of the SofS's Policy Statement and with relevant Defence regulation and policy. This must be prescribed expressly in relevant contractual arrangements. Generally, Defence Contractors cannot benefit from any disapplication, exemption or derogation from statutory requirements granted to Defence where they control activities. There may be exceptions to this which should be specific in contractual arrangements where they occur. Significantly though, Defence Contractors are not exempt from prosecution.

26. Specifically, where any UK Defence contractor designs, manufactures, imports or supplies any equipment for use by Defence at work it has legal responsibilities under UK health and safety legislation' with specific regulations under the HSWA74, e.g., the Supply of Machinery (Safety) Regulations 2008.

27. For overseas manufacturers and suppliers, these requirements should be included in contractual arrangements. The UK responsibilities are to:

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

Inform the user if the equipment becomes unsafe to operate.

Element assurance framework

28. The focus of this element requires that the Defence organisation has implemented safe systems of work to control activities and meet its legal duty of care requirements. It has arrangements for application of these systems that includes supervision of all the workforce and contractors. Leadership have effective frameworks in place to ensure that they have sufficient and timely oversight of the Defence organisation and its supply chain using the four Cs: coordination, co-operation, communication and control. This should also apply to Duty Holding where there is a credible and reasonably foreseeable Risk to Life (RtL) and where other statutory arrangements are seen to be inadequate.

29. The expectations and performance statements for this element are set out in the following pages.

Expectations and performance statements

Element 5: Supervision, Contracting and Control Activities

The Expectations in this element are:

E5.1 The Defence organisation has mechanisms in place to delegate authority for the control of activity.

E5.2 Those holding delegation of authority are trained and competent to discharge their responsibilities and accountabilities.

E5.3 Those responsible for the control of activity have a mechanism in place to assess and elevate risk where necessary and leadership are actively involved in the risk management.

E5.4 Delegated authority should be formally appointed via a letter of delegation.

E5.5 Those responsible for the control of activity have a duty to mitigate risk to as low as reasonably practicable (ALARP) and tolerable.

E5.6 Those responsible for control of activity have the authority to pause or cease activity where a risk is no longer ALARP and tolerable.

E5.7 The Defence organisation has developed and implemented Safe Systems of Work (SSW), to safeguard those carrying out the work or affected by it.

Documents often associated with this element:

- 1LOD assurance reports
- Audit reports such as Control of Major Accident Hazards (COMAH) requiring specific contracts to deliver
- Command / Corporate plan
- Communications plan
- Contract management and supply chain management plans including safety arrangements
- Corporate risk register
- Defence organisation Operating Model
- Defence organisation SMS
- Documented arrangements for safety co-operation with contractors, lodger units (including Encroachments)
- Letter of delegation / authority / appointment including Duty Holder construct and Head of Establishment letters and acceptance
- RACI (Responsible, Accountable, Consulted,

Expectation 5.1 The Defence organisation has mechanisms in place to delegate authority for the control of activity.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> • There is little or no evidence to demonstrate that there are mechanisms in place to delegate authority for the control of activity. • There is little or no evidence to demonstrate that Safety roles, tasks and objectives are defined. 	<ul style="list-style-type: none"> • There is some, but not enough evidence that there is a mechanism in place to delegate authority consistently across the Defence organisation. 	<ul style="list-style-type: none"> • There is evidence but could be improved, that there are mechanisms in place to delegate authority for the control of activity across the Defence organisation, and such delegated authorities are communicated and clear. 	<ul style="list-style-type: none"> • There is robust evidence that there are mechanisms in place to delegate authority for the control of activity across the Defence organisation. • There is robust evidence that responsibilities are systematically identified and given in writing to teams or individuals, who demonstrate formal acceptance of these responsibilities.

Expectation 5.2 Those holding delegation of authority are trained and competent to discharge their responsibilities and accountabilities.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> • There is little or no evidence to demonstrate training is provided to those holding delegation of authority. • There is little or no evidence to demonstrate there is assessment performed of their competence to understand and discharge their responsibilities and accountabilities. 	<ul style="list-style-type: none"> • There is some, but not enough evidence that training is provided to those holding delegation of authority. • There is some, but not enough evidence that assessment performed of their competence to understand and discharge their responsibilities and accountabilities. There is some, but not enough evidence that this is consistent across the Defence organisation. 	<ul style="list-style-type: none"> • There is some but could be improved evidence that those holding delegation of authority are trained. • There is some but could be improved evidence that competence is assessed prior to delegation of authority and is monitored and reassessed periodically. 	<ul style="list-style-type: none"> • There is robust evidence that those holding delegation for authority are trained and are provided with opportunities for continual learning and development. • There is robust evidence that competence and training completion are regularly monitored and assessed.

Expectation 5.3 Those responsible for the control of activity have a mechanism in place to assess and elevate risk where necessary and leadership are actively involved in the risk management.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> • There is little or no evidence to demonstrate that mechanisms in place for those responsible for the control of activity to assess and elevate risk. • There is little or no evidence to demonstrate that leadership is involved in risk management. 	<ul style="list-style-type: none"> • There is some, but not enough evidence that those responsible for the control of activity have a mechanism in place to assess and elevate risk. There is some, but not enough evidence that it has been effectively communicated. • There is some, but not enough evidence that leadership is aware and involved in risk management. 	<ul style="list-style-type: none"> • There is some but could be improved evidence that those responsible for the control of activity have a mechanism in place to assess and elevate risk. There is some but could be improved evidence that this has been effectively communicated, and included in work instructions, procedures, and orders, as necessary. • There is some but could be improved evidence that leadership is aware and involved in risk management. 	<ul style="list-style-type: none"> • There is robust evidence that procedures to elevate risks are regularly monitored for effectiveness and lessons learnt and shared. Mechanisms in place are continually improved. • There is robust evidence that leadership is actively involved in risk management.

Expectation 5.4 Delegated authority should be formally appointed via a letter of delegation.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> There is little or no evidence to demonstrate that letters of delegation are in place 	<ul style="list-style-type: none"> There is some, but not enough evidence that those with delegated authorities have a letter of delegation or have letters that reflect their current responsibilities. 	<ul style="list-style-type: none"> There is some but could be improved evidence that all those with delegated authorities are formally appointed via a letter of delegation, providing detail on their role and responsibilities. There is some but could be improved evidence that all those with delegated authorities have formally accepted a letter of delegation. 	<ul style="list-style-type: none"> There is robust evidence that all those with delegated authorities are formally appointed via a letter of delegation. There is awareness across the organisation as to who has delegated authority. There is robust evidence that all those with delegated authorities understand their delegations. There is robust evidence that the letter of delegation is continually monitored for its relevance.

Expectation 5.5 Those responsible for the control of activity have a duty to mitigate risk to As Low As Reasonably Practicable (ALARP) and tolerable.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> There is little or no evidence to demonstrate that the Defence organisation have a process in place to adequately assess, identify and mitigate risks to ALARP and tolerable. 	<ul style="list-style-type: none"> There is some, but not enough evidence that the Defence organisation has a process in place to assess, identify and mitigate risks to ALARP and tolerable. There is some, but not enough evidence that it is being consistently applied across the organisation. 	<ul style="list-style-type: none"> There is some but could be improved evidence that the Defence organisation has a process in place to assess, identify and mitigate risks to ALARP and tolerable that is consistently applied across the organisation. 	<ul style="list-style-type: none"> There is robust evidence that the Defence organisation has a process in place to assess, identify and mitigate risks to ALARP and tolerable that is consistently applied across the organisation. In addition, risk controls are monitored and reassessed regularly with actions taken in response.

Expectation 5.6 Those responsible for control of activity have the authority to pause or cease activity where a risk is no longer ALARP and tolerable.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> There is little or no evidence to demonstrate that there is a process in place to allow those in control of activities to pause or cease activity where a risk is no longer ALARP and tolerable. 	<ul style="list-style-type: none"> There is some, but not enough evidence that there is a process in place to allow those in control of activities to pause or cease activity where a risk is no longer ALARP and tolerable. There is some, but not enough evidence that this is applied consistently across all activities. 	<ul style="list-style-type: none"> There is some but could be improved evidence that there is a process in place to allow those in control of activities to pause or cease activity where a risk is no longer ALARP and tolerable. There is some but could be improved evidence that this is applied across some activities. 	<ul style="list-style-type: none"> There is robust evidence that there is a process in place to allow those in control of activities to pause or cease activity where a risk is no longer ALARP and tolerable. There is robust evidence that this is applied consistently across all activities.

Expectation 5.7 The Defence organisation has developed and implemented Safe Systems of Work (SSW), to safeguard those carrying out the work or affected by it.

Unsatisfactory	Limited	Moderate	Substantial
<ul style="list-style-type: none"> There is little or no evidence to demonstrate that the Defence organisation has developed or implemented SSW. 	<ul style="list-style-type: none"> There is some, but not enough evidence that SSW are inconsistently adopted and applied throughout the Defence organisation, and they are not communicated effectively to the workforce across the Defence organisation. 	<ul style="list-style-type: none"> There is some but could be improved evidence that SSW are consistently adopted and applied throughout the Defence organisation. There is some but could be improved evidence that SSW are defined, and their importance and application is communicated effectively to the workforce across the Defence organisation. 	<ul style="list-style-type: none"> There is robust evidence that the Defence organisation continually improves its SSW processes based on the application of lessons learned.