



**DE&S SAFETY AND ENVIRONMENTAL  
PROTECTION LEAFLET 09/2015**

**DE&S's CONTRIBUTION TO MITIGATING RISK TO LIFE  
ACROSS MOD INCLUDING:**

- the Duty Holder Construct within DE&S and its principles
- DE&S's responsibilities to provide safe materiel and to ensure the safety of activities undertaken on the DE&S Estate
- DE&S's support to Duty Holders in Front Line Commands.

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**ISSUE**

1. This SE&P Leaflet defines the arrangements adopted by DE&S to discharge its Duty Holder responsibilities in relation to Risk to Life as set out in DSA 01.1, and to provide safe materiel and support to Front Line Commands (FLCs) in its role as a Duty Holder facing organization. It should be read in conjunction with that document as well as the domain-specific instructions issued by Regulators and published in various JSPs, MAA Regulatory Articles and other Regulatory documents.

**BACKGROUND**

2. The Duty Holder construct was introduced into MOD safety policy as a specific adaptation of the normal employers' duty of care responsibilities. At a MOD level, it is based on the set of ten principles attached at Annex A, and applies where non-standard military activities are judged to pose a Risk to Life (RtL). Introduction of the Duty Holder concept (and the contents of this leaflet) does not alter or remove the legal and common law duties of care including those resultant from the Health & Safety At Work etc Act 1974 (HSWA). It recognises that many defence activities have high consequences and, should a failure occur, the risk of fatality amongst MOD personnel (both DE&S and FLC) or harm to members of the public are both credible and foreseeable (hence the term Risk to Life). As such, it is necessary to introduce arrangements to formally define the safety responsibilities and accountabilities of named individuals who manage and control those activities.

3. By putting in place mechanisms which control Risk to Life to levels which are Broadly Acceptable or As Low As Reasonably Practicable (ALARP) & Tolerable, MOD Duty Holders ensure that all persons to whom MOD owes a common law and statutory duty of care are protected, namely:

- a. The personnel under their command or management (either directly or via third parties, eg where Risk to Life activities are undertaken on behalf of MOD via contract action) including those temporarily involved in MOD's activities; and
- b. Others who could be affected by such activities, eg the public.

4. Most Duty Holders within MOD are in the FLCs. It is only where non-standard military activities posing a Risk to Life are carried out within the DE&S areas of responsibility (ie where DE&S provides the "controlling mind" for that activity) that DE&S Duty Holders need to be appointed. Through compliance with the relevant instructions and principles in this Leaflet, DE&S will identify the relevant roles and appoint named people as Duty Holders. It is the responsibility of the DE&S Duty Holder to:

- a. Put in place appropriate arrangements to discharge their Duty Holder responsibilities, including the identification of roles and appointment of named people as Duty Holders, where its own activities give rise to Risks to Life;
- b. Where necessary, escalate Risks to Life up the Duty Holder chain, ultimately to the Secretary of State for Defence (SofS).

5. Roles, responsibilities and accountabilities for DE&S Duty Holders are described at Annex B.

### **PRINCIPLES for the appointment and operation of Duty Holders within DE&S**

6. Within DE&S, Duty Holders shall be appointed where there is a credible and reasonably foreseeable Risk to Life (including to those not directly involved in the activity, such as members of the public) from the operation of a platform, a non-standard military activity or a significant exercise.

#### ***3-tier structure***

7. DE&S has developed a 3-tier Duty Holder structure. These tiers are equivalent to those set out within DSA 01.1 –Defence Policy for Health, Safety & Environmental Protection, MAA Regulatory Article RA1020 and extant FLC governance arrangements, and comprise:

- a. Senior Duty Holder, which is the CEO;
- b. Operating Duty Holders, see Annex C;
- c. Delivery Duty Holders, see Annex C.

8. The CEO, as the Senior Duty Holder, is accountable to the SofS for discharging this role effectively. In doing so, the CEO shall appoint Operating Duty Holders through formal Letters of Delegation (LoDs) that set out the role of each Duty Holder, explain what is expected of them and define what support they will receive to enable them to fulfil their obligations. Operating Duty Holders shall, in turn, issue LoDs to those identified as Delivery Duty Holders (see Annex C). Below this level, less formal mechanisms such as Assignment Specifications and Success Profiles are to be in place that set out the support that individuals will provide to delegated Duty Holders.

## **Control of Risk to Life**

9. Nominated Duty Holders within DE&S have responsibility and accountability to demonstrate that Risk to Life within their area of responsibility is either *Broadly Acceptable or ALARP & Tolerable* in accordance with extant policy. Should this not be achievable then risks shall be referred upwards, including where necessary, escalated up to the SofS. Duty Holders at all levels shall also ensure that a consistent approach to establishing criteria for ALARP and tolerability and is applied when mitigating Risk to Life within their areas of responsibility and, where appropriate, throughout their sub-ordinate Duty Holder structure.

10. In discharging their responsibilities, Duty Holders shall work within an appropriate and proportionate safety management system that is resourced and followed. Through their LoDs, Duty Holders have delegated responsibility, accountability and authority to enable them to discharge their duties and are to comply with all extant safety policies and instructions, eg JSPs, DSA Regulatory publications, ASEMS, etc.

## **Equipment Released to Service & In Service**

11. DE&S, as part of the fabric of its safety culture, takes responsibility and accountability for the material state and standards of the equipment it supplies to FLCs and ensures that the DL0Ds within its control contribute to mitigating Risk to Life. Additionally, DE&S personnel are responsible for managing safety-related certification and release-to-service activities, making decisions and taking responsibility at levels commensurate with formally appointed Duty Holders whilst delivering crucial elements of MOD's safety arrangements. Those undertaking such vital and onerous work are not in Duty Holders roles per se, because they are not responsible for the operation of the equipment nor the personnel at risk. However, DE&S ascribes a significant safety status to such roles, and appointment to them is via bespoke *safety* LoDs. Furthermore, DE&S has adopted a taxonomy against which all individuals with formally-delegated safety responsibilities shall be mapped. This provides additional clarity of the scope and extent of those delegated responsibilities, and enables DE&S to more accurately monitor and manage the allocation of resources to these key positions. These roles include, for example, those undertaking duties as Technical Airworthiness Authorities, Maritime Platform and Equipment Authorities, and others who provide certification services. As part of the DE&S holding-to-account arrangements for safety, all LoDs will be subject to annual review.

12. When equipment is in service, the Duty Holder role will normally reside with the respective FLC and DE&S will act as a Duty Holder facing organisation directly supporting the FLC Duty Holders. Accordingly, the DE&S Delivery Teams shall ensure that FLC Duty Holders are:

- a. Supported and supplied with products, systems and services where risks have been assessed to be *Broadly Acceptable or ALARP & Tolerable*; and
- b. Provided with suitable and sufficient information to enable the risks associated with use of products, systems and services to be appropriately managed.

13. As the senior person within DE&S, the DE&S CEO is accountable to the SofS for all aspects of support provided by DE&S to the FLCs. This includes assurance roles performed by DE&S personnel who are involved in the certification of equipment based on the review of technical submissions. DE&S personnel who discharge such duties shall do so under bespoke (to their role) *safety* LoD, eg Letters of Airworthiness Authority; in

accordance with the DE&S Duty Holder construct, personnel performing these roles are not routinely identified as Duty Holders.

### ***Duty Holder Responsibilities across the DE&S Estate***

14. On sites where DE&S personnel undertake activities that pose a potential Risk to Life, a single individual shall be nominated to fulfil the Delivery Duty Holder role. In most instances, this shall be the Head of Establishment. Where it is not possible or appropriate for the Head of Establishment to fulfil this role, another member of DE&S or the wider MOD may be appointed so long as they are able to fully discharge their Delivery Duty Holder responsibilities. Effective communication for safety shall be established with suitable escalation processes put in place including, where necessary in the case of infrastructure, up the Duty Holder chain and ultimately to the SofS. Additional arrangements will be required for sites where activities are undertaken by more than one organisation (including contracted service providers) or delivery of some aspects of safety rests with others, eg the Defence Infrastructure Organisation. In such cases, responsibilities are required to be agreed with all key stakeholders and clearly documented (for example, within contracts or in the form of Service Level Agreements). Arrangements shall be invoked to ensure that interfaces are identified and risks across them can be appropriately managed.

### ***Delegation of Duty Holder Responsibilities to Non MOD Personnel***

15. Whilst contractors who undertake work or provide services directly in support of DE&S activities shall comply with the requirements of current legislation and contractual obligations, only Crown Servants can be Duty Holders. Where Risk to Life activities are undertaken by contractors on behalf of DE&S, safety responsibilities shall be discharged through the implementation of robust contracting arrangements. These shall clearly define and document the contractor's duty of care obligations within their Areas of Responsibility, interfaces and boundaries including their ability to, and responsibility for, controlling, escalating and, where necessary, stopping activities.

### ***Competence, Resources & Support***

16. In issuing formal LoDs, it is the responsibility of the issuing Duty Holder (the delegator), ultimately the CEO, to ensure that everyone receiving the delegation (whether as a Duty Holder or in other bespoke safety roles) is competent and suitably qualified and experienced to enable them to discharge their role effectively.

17. The issuing Duty Holder shall also ensure that the delegated Duty Holder and others have sufficient authority, resources and support to enable them to discharge their responsibilities and should hold them to account for their actions and omissions.

18. Competence requirements may be agreed with the appropriate regulator. Duty Holders shall, as necessary, require the support of Subject Matter Experts (SMEs), both technical and, from an operating perspective, in carrying out their role.

### ***Interfaces***

19. When developing the Delivery Duty Holder roles, it is essential that interfaces between responsibilities and organizations are identified so that risks across them can be appropriately managed and effective communication to safeguard safety established.

## **Duty Holder vs Duty Holder Facing**

20. DE&S plays a vital role in ensuring safety across many of MOD's activities and DLODs (Defence Lines of Development), particularly by ensuring that the equipment provided to the FLCs is safe when used within prescribed limitations and boundaries. The duties on those with formally-delegated responsibilities to ensure and assure equipment safety, such as safety-SQEP DE&S Team Leaders and those DE&S individuals who perform certification activities, are necessarily onerous and a crucial part of MOD's arrangements for controlling Risk to Life. However, within the DE&S Duty Holder construct, those individuals are not defined as Duty Holders and are described as being in 'Duty Holder-facing' roles.

## **IMPLEMENTATION**

21. The principles and instructions in this Leaflet should be applied immediately.

## **QUERIES**

22. For further information and clarification please contact: DES DE S-QSEP-Safety Asst Hd.

Annexes:

- A. Duty Holder Principles
- B. DE&S Duty Holder Roles, Responsibilities & Accountabilities.
- C. Table of DE&S Operating & Delivery Duty Holders.

## DEFENCE DUTY HOLDING PRINCIPLES

1. Duty Holding must only be implemented for military activities which present a justified, credible and reasonably foreseeable Risk to Life (RtL) and where the duty of care and other statutory arrangements are shown to be inadequate for owning, assuring or escalating the risk.
2. Duty Holders should be appointed at 3 levels (but not throughout the chain of command): Senior Duty Holder (SDH), Operating Duty Holder (ODH) and Delivery Duty Holder (DDH).
3. Duty Holders should be competent and adequately prepared for Duty Holding, by means of formal training, in order to understand and discharge their responsibilities and accountabilities.
4. Duty Holding is not rank related and a Duty Holder should have direct access to a superior Duty Holder.
5. Duty Holders should be empowered through letters of appointment (*in DE&S, Duty Holders are issued formal Letters of Delegation*).
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 tolerable and ALARP. 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.
7. Duty Holders must have the authority, if appropriate, to pause or cease activities within an operating envelope where an operating risk is no longer tolerable and ALARP.
8. Where a Duty Holder is unable to mitigate a RtL to both tolerable and ALARP, a mechanism should exist for it to be escalated up the Duty Holder chain.
9. Duty Holders always retain their responsibilities for deployed Force Elements (FEs). These FEs are owed a duty of care by the Operational Commander (*NOTE: not applicable to DE&S*).
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 other services supporting the mitigation of RtL, are recognised as Duty Holder-facing (*NOTE: whilst DE&S predominately performs a Duty Holder-facing role, it remains a Duty Holder for those non-standard military, Risk to Life activities that are under its direct control (ie for which it is the controlling mind)*).

## **DE&S DUTY HOLDER ROLES, RESPONSIBILITIES AND ACCOUNTABILITIES**

1. **Senior Duty Holder.** As the Senior Duty Holder, the CEO shall have arrangements in place to ensure that DE&S's activities are conducted where:
  - a. Promotion of a positive safety culture exists and is promulgated for the protection of all personnel.
  - b. Risk is owned and managed to ensure that it is *Broadly Acceptable or ALARP & Tolerable*, and where necessary, escalated upwards to the SofS.
  - c. All Duty Holders receive appropriate training and have at their disposal adequate resources to deliver high standards of performance. All other personnel are suitably trained, qualified and experienced, and thus competent for their role to discharge their duties effectively and safely.
  - d. Equipment, platforms and facilities are subject to regular review, maintenance, inspection, testing and servicing, so it remains capable of meeting their design requirements through life.
  - e. Equipment, platforms and facilities are operated within the limits of appropriate, relevant, current and proportional safety cases for the operating envelope. Where equipment, platforms and facilities are operated outside their design envelopes for justified operational reasons, sufficient and suitable risk assessments are carried out and risks appropriately mitigated.
  - f. Risk management activities comply with legislation and MOD regulation/policy.
  - g. All injuries, incidents, accidents and near misses are recorded, collated, analyzed and investigated to ensure lessons are identified, learnt and shared with all relevant stakeholders.
  - h. To ensure that the delegations from PUS are met, a written Organisation and Arrangements statement is produced setting out a Safety & Environment Management System and adequate arrangements for safety.
  - i. Arrangements are in place to hold Duty Holders to account for the adequate performance of their role.

The Senior Duty Holder shall also have in place suitable arrangements for escalating risks, where necessary to the SofS.

2. **Operating Duty Holder.** The Operating Duty Holder shall have arrangements in place for ensuring that:
  - a. Sufficient resource is available to ensure safety-related activities are undertaken by a requisite number of competent and suitably qualified and experienced people (SQEP). Where this cannot be achieved and there are safety implications, consideration shall be given to constraining any associated activity in conjunction with advice from the relevant subject matter experts.
  - b. Those undertaking activities including operating and maintaining equipment, platforms and facilities shall be provided with suitable documentation, instructions and training to discharge their responsibilities in a safe manner. The Duty Holder shall implement arrangements to ensure these processes and procedures are understood and followed.
  - c. Accidents, incidents, near misses and hazards are fully reported. Accidents, incidents and near misses are investigated properly to identify any

human factors, immediate, root and systemic causes. These findings must be analysed and any lessons identified must be implemented and promulgated as appropriate.

- d. Where a safety case mandates specific training and procedural requirements, these shall be formally acknowledged and implemented as necessary.
- e. Equipment, platforms and facilities, and the procedures for their use, shall not be modified without assessing and managing the changing risk profile.
- f. Equipment, platforms and facilities shall not be operated outside the safety-assessed design envelope without sufficient and suitable risk assessment and mitigation, carried out in concert with the Delivery Duty Holder, subject to the operational circumstances.
- g. In some instances, achieving a safe working environment relies on the interaction between multiple Duty Holders. Where this occurs, interfaces between the various Duty Holders shall be explored, understood and formalised prior to the issue and acceptance of Delivery Duty Holder LoDs. Stakeholder responsibilities are required to be agreed and clearly documented (for example in the form of Service Level Agreements); and suitable escalation processes put in place.

3. **Delivery Duty Holder.** The Delivery Duty Holder shall ensure that when the equipment, platform, activity or establishment is under the control of DE&S that:

- a. Safety roles, responsibilities and accountabilities are defined clearly and promulgated.
- b. Safety risks are identified and managed, including escalation through the Duty Holder chain where it is not possible to mitigate a risk to ALARP & Tolerable locally.
- c. Equipment, platforms and facilities are used and maintained in accordance with operating procedures and safe systems of work.
- d. Equipment and platform material state and performance is monitored and reviewed and appropriate action taken where it deviates from prescribed levels.
- e. Injuries, incidents and near misses are reported and investigated.
- f. Safety information and procedures are published and communicated to all personnel, visitors and contractors where appropriate.
- g. Equipment, platforms and facilities are operated within the limits of appropriate, relevant, current and proportional safety cases for the operating envelope. Where equipment, platforms and facilities are operated outside the design envelopes for justified operational reasons, sufficient and suitable risk assessments are carried out and risks mitigated.
- h. Contractual arrangements clearly and explicitly define safety management arrangements which shall be implemented to ensure both MOD and the third party provider fully and effectively discharge their safety responsibilities.



**TABLE OF DE&S OPERATING AND DELIVERY DUTY HOLDERS**

<b>Operating Duty Holder</b>	<b>Delivery Duty Holder</b>	<b>Duties/Area of Responsibility</b>
Director Ships Support	Chief Salvage and Mooring Officer	Salvage, towing, diving and related hazardous activities.
Director Ships Acquisition <sup>1</sup>	Nominated BAE Delivery Directors for QEC and PWLS <sup>2,3</sup>	New Build Surface Ships pre Vessel Acceptance Date
Director Weapons	Head of Establishment, DM Crombie	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Crombie and of members of the public affected by the activities conducted at the site.
Director Weapons	Head of Establishment, DM Glen Douglas	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Glen Douglas and of members of the public affected by the activities conducted at the site.
Director Weapons	Head of Establishment, DM Gosport	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Gosport and of members of the public affected by the activities conducted at the site.
Director Weapons	Head of Establishment, DM Plymouth	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Plymouth and of members of the public affected by the activities conducted at the site.
Director Weapons	Head of Establishment, DM Beith	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Beith and of members of the public affected by the activities conducted at the site.
Director Weapons	Head of Establishment, DM Longtown	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Longtown and of members of the public affected by the activities conducted at the site.

<sup>1</sup> ODH responsibilities and arrangements for new build warships will vary between DE&S and Navy Command on a case-by-case basis, depending on the contracting arrangements negotiated.

<sup>2</sup> Delivery Duty Holder arrangements for other Ships in build will be subject to commercially agreed arrangements - not yet defined.

<sup>3</sup> Whilst the BAE Delivery Director undertakes Delivery Duty Holder activities as defined in Maritime regulations, these are bestowed via contractual arrangements; they will not receive a formal Letter of Delegation from the ODH.

Director Weapons	Head of Establishment, DM Kineton	Responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Kineton and of members of the public affected by the activities conducted at the site.
Director Weapons	Head of Establishment, DM Wulfen	DM Wulfen is a Lodger Unit in a German Army (Bundeswehr) administered ammunition depot. HoE DM Wulfen is responsible for ensuring the health and safety of all personnel (employees and visitors) at DM Wulfen and members of the public affected by DM activities conducted at the site.