



DE&S SAFETY AND ENVIRONMENTAL PROTECTION LEAFLET 16/2021

COMMERCIAL DIVING ACQUISITION		
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ISSUE

1. DE&S’ requirements for diving operations are met through a combination of contracted commercial divers including indirect/vicarious 3rd Party contracts, DE&S divers (SALMO) and Military divers. Regardless of the mode of delivery, all DE&S diving activity is subject to legislation and regulation and this SE&P Leaflet defines the arrangements required within DE&S to discharge its responsibilities in relation to the acquisition of commercial diving services.

BACKGROUND

2. Diving is considered by the Health and Safety Executive (HSE) to be a high hazard activity due to the nature of the work being conducted in an atmosphere incapable of supporting life without the use of life support systems. The [Diving At Work Regulations 1997 \(DWR 97\)](#) require every person who to any extent is responsible for, has control over or is engaged in a diving project or whose acts or omissions could adversely affect the health and safety of persons engaged in such a project, to take such measures as it is reasonable for a person in his position to take to ensure that the Regulations are complied with¹.

3. To ensure that DE&S can meet the requirements of DWR 97, it must ensure that it has suitable and sufficient arrangements in place to ensure the risks associated with diving activity, regardless of whether this is by contracted commercial, DE&S or Military divers.

¹ DWR 97 Regulation 4 Duty to ensure compliance

4. When DE&S contracts for diving services, DE&S is identified as a Client Responsible Organisation (CRO) in accordance with the Defence Maritime Regulations², with safety responsibilities existing through the contracting chain. DE&S is to ensure that all such commercial diving operations conducted within the UK's territorial waters comply with the DWR 97 & [The Merchant Shipping \(Diving Safety\) Regulations 2002](#).
5. Defence Policy requires that when operating in areas where UK law does not apply, equal or higher standards should be applied therefore compliance should also be maintained overseas so far as is reasonably practicable.
6. It should be noted that CROs are identified at TLB level (e.g. DE&S, SDA, DIO etc) such that within a CRO there may be multiple teams that are engaged with diving activity.
7. Regulation of Defence Diving is conducted by the [Defence Maritime Regulator \(DMR\)](#) on behalf of the Defence Safety Authority (DSA).

PURPOSE

8. This document describes DE&S' policy for the acquisition of commercial diving services for DE&S sponsored diving projects and provides direction to Delivery Teams to ensure that their responsibilities under both the DWR 97 and DSA 02 are understood and met. This policy is applicable to all DE&S personnel with responsibility for the management of commercial diving services where DE&S has contracted for the activity.
9. Domains should implement and use their own process(es) to manage and assure diving activities under their direct or vicarious³ control which must be consistent with the intent of this policy document.
10. The prime legislation covering diving is DWR 97 supported by the associated Approved Codes of Practice (ACOP). The Diving Regulations apply to any diving project when at least one diver is at work and DE&S will ensure that its responsibilities under [DWR 97](#) and Defence Regulation (DR) are understood and met.
11. Other applicable legislation includes The Merchant Shipping (Diving Safety) Regulations 2002 which extends the provisions of the DWR97 to vessels operating within the UK and to UK vessels outside UK waters from which diving activity is being conducted.

DEFINITIONS

12. The key definitions relating to the acquisition of diving services are as follows:
 - **Diver** - A person at work who dives as an employee. A person "dives" if:
 - (a) they enter – (i) water or any other liquid; or (ii) a chamber in which they are subject to pressure greater than 100 millibars above atmospheric pressure; and

² DSA02-DMR – Defence Maritime Regulations for Health, Safety and Environmental Protection Regulation 803 - Diving Safety Verification - Commercial Diving Acquisition

³ Activities under DE&S' vicarious control include those where diving is carried out by a sub-contractor as part of a DE&S contract, or where a contractor is not explicitly required to perform diving activities by the contract, but does so in the process of discharging other obligations.

(b) in order to survive in such an environment, they breath in air or other gas at a pressure greater than atmospheric pressure.

- **Diving Project** - means any activity, made up of one or more diving operations, in which at least one person takes part or will take part as a diver.
- **Diving Contractor** - the Diving Regulations require that one person is identified as the diving contractor for each diving project. The main duties under the Diving Regulations are placed on the diving contractor. The diving contractor will normally be the employer of the divers engaged in the diving project.
- **Client** - the body who has placed a contract with a diving contractor to deliver a diving project. The client may be the owner of a site where diving work is going to take place, or the owner's agent, or a contractor acting on behalf of the owner or agent. DE&S as an organization with more than one client is a Client Responsible Organisation and is responsible for a consistent application of the regulations across the whole enterprise.
- **Client Responsible Organisation (CRO)** - Any MOD organisation that contracts for commercial diving services is defined as a CRO. The CRO is required to be able to demonstrate an appropriate Diving Safety Management System (DSMS) is in place that is compliant with DWR 97. Where DE&S places contractual agreements that include commercial diving, then DE&S is the CRO, regardless of where the final delivery of the service might sit.
- **Accountable Person (AP)** - The individual who is in a position of authority, responsibility and competence to conduct activity and carry out improvement within an organisation and held accountable by a Statutory or Defence Regulator for reducing risk of harm. They are responsible for the implementation of a safety and environmental management system for their specified area of responsibility. The responsibilities of APs for Defence Maritime Activities are described in the DSA02-DMR 200 Series Regulations.
- **Commercial diving** - This includes any commercially contracted diving, whether directly or vicariously. This also includes Military Divers if used for a task that would ordinarily be conducted by Commercial Divers.
- **Military Diving** - Activity conducted by military diving units, the nature of the activity allows some derogation from DWR 97 specifically warfighting or training for warfighting. All other activity should be compliant with DWR 97.
- **Others** - the actions and activities of other people can affect the safety of the dive team even though they are not direct members of the team, and therefore they may have responsibilities for ensuring that the Regulations are complied with for those matters under their control.

SCOPE

13. The scope of DE&S diving activity covered by this policy includes the following:
 - a. Diving projects for which DE&S is responsible through ownership of contracts (i.e. through which commercial diving is conducted); and

b. Client responsibilities arising from designing, building and maintaining Products, Systems or Services.

14. Diving conducted by DE&S divers (SALMO) is not covered by this policy. This activity is managed under SALMO's DSMS and externally audited by the Defence Diving Standards Team (DDST).

ROLES & RESPONSIBILITIES

15. The key roles and responsibilities when contracting for diving services are as follows:

- **Accountable Person (AP)** – The DE&S Chief Executive Officer (CEO) is the AP for diving safety within DE&S. The AP is responsible for demonstrating compliance by setting a the organisation’s Diving Safety Management System (DSMS). Additional accountability and requirements set within that DSMS should frame requirements at different organisational levels.
- **DE&S as CRO** – The organisation has a broader duty under DWR 97 to ensure that the Regulations are complied with for those matters under their control. Therefore, as CRO DE&S is responsible for establishing the top-level policy enabling Domains to establish their own measures which are commensurate with the quantity and complexity of the diving activity conducted by their teams.
- **DE&S Domains** – Responsible for:
 - Participation in DE&S Diving Safety Forums;
 - Maintaining awareness of diving operations conducted on their behalf within the delivery of its output and operational activities;
 - Producing domain led policy on how any diving activity should be conducted and assured;
 - Identifying and nominating key individuals with diving responsibility within the domain; and
 - Establishing effective assurance arrangements.
- **Others within DE&S** – Domains, teams or individuals may have diving responsibilities. The following list provides examples of where this responsibility exists but is indicative; it is the responsibility of the individual team to determine if diving support is required and to take such measures or ensure such measures are taken to ensure the safety of the diving project(s):
 - Operating Centres, Platform Authorities, Equipment Teams and Enablers who explicitly or implicitly demand diving support directly or through a support contract;
 - Teams who provide equipment such as cofferdams, blanks, tools or other equipment which are required and used by a dive team to perform the task;
 - Teams where diving support is required for maintenance, installation or removal of equipment;
 - Trials when diving support is required for the conduct of the trial; e.g. placing or removing from the seabed to monitor trials or recovery of items from underwater following a trial;
 - Contracting Authorities should ensure the relevant text from [DSA02-DMRAMC803](#)⁴ is included in all contracts where commercial diving activity is required. They should also make provision for appropriate

⁴ DMR DSA 02 Regulation 803 Diving Safety Verification Commercial Diving Acquisition Acceptable Means of Compliance Para 2 Page 84.

assurance of diving activities, contracted or otherwise⁵, checking competence and deciding whether to appoint a Client Rep; and

- “Others” who provide equipment or technical information that is required for a dive team to safely operate. Provision of incorrect or incomplete technical information, wrong or no tools may put the trial, maintenance or equipment at risk. It also increases the risk to the dive team by increasing exposure time, the number of dives required, and the need to deviate from work instructions, as well as impacting on time and schedule costs.

- **Commissioning Diving** - should not be commissioned/contracted within DE&S unless the diving contractor has been assessed and found to be competent against the appropriate ACOP; the outcome of which shall be a reasonable expectation of compliance with regulations. This requirement extends to contractors who are commissioning diving on behalf of DE&S in addition to contractors who are directly contracted to dive for DE&S. The assessment of competence should be carried out by SQEP personnel. There is a reciprocal requirement on DE&S to provide the equipment, procedures guidance to allow the work to be safely completed.

- **Client Representatives** - this role is not specifically required under DWR97. However, consideration should be given to appointing a Client Representative⁶ if the nature of the Diving Project requires it to provide technical support and guidance to the Diving Contractor to ensure safe and efficient execution of the dive project. Any person appointed as a Client Representative should be competent for the task.

DIVING SAFETY MANAGEMENT SYSTEM

16. DE&S is engaged in a broad range of diving operations either DE&S employed or contracted commercial divers or through indirect/vicarious 3rd Party contracts. DSA 02 Defence Maritime Regulations requires DE&S to implement an effective DSMS covering all its diving activities. DE&S must demonstrate that the DSMS is compliant with DWR 97 and MOD regulatory requirements.

17. DE&S is a frequent user of contracted commercial diving services and therefore CRO for contracting commercial diving services. There is a broad distribution of responsibility for commercial diving operating safety, as described in the ACOP for Commercial Diving Operations, in order to meet the requirements of the DWR 97.

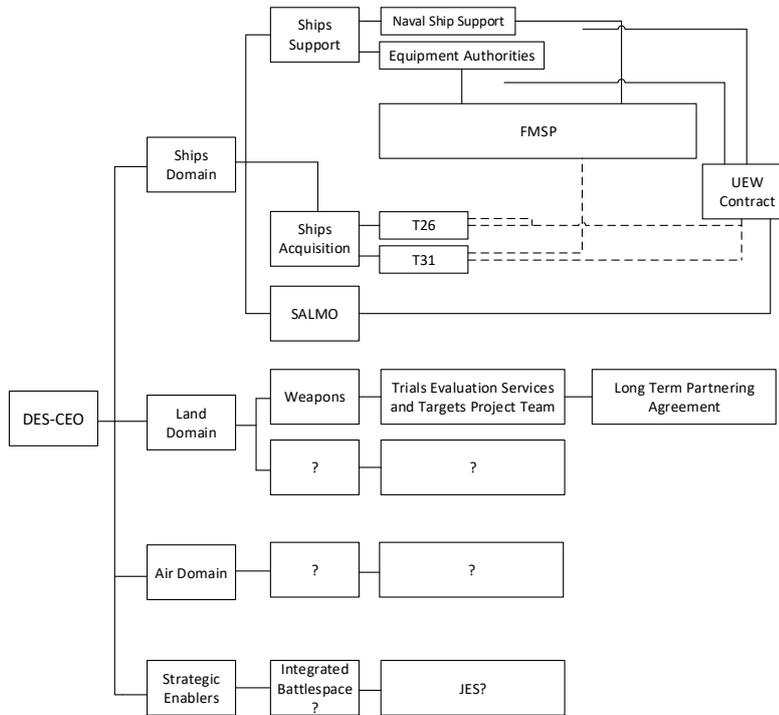
18. Domains are responsible for identifying and maintaining a list of commercial diving activities being undertaken within their area(s) of responsibility. Where diving activities are identified, Domains should establish a suitable and sufficient DSMS which adequately captures these activities and establishes the arrangements necessary to manage and assure them. Particular care should be taken where indirect/vicarious 3rd Party diving activity is being undertaken as this may not be directly obvious.

19. The diagram below identifies the diving activity within DE&S⁷:

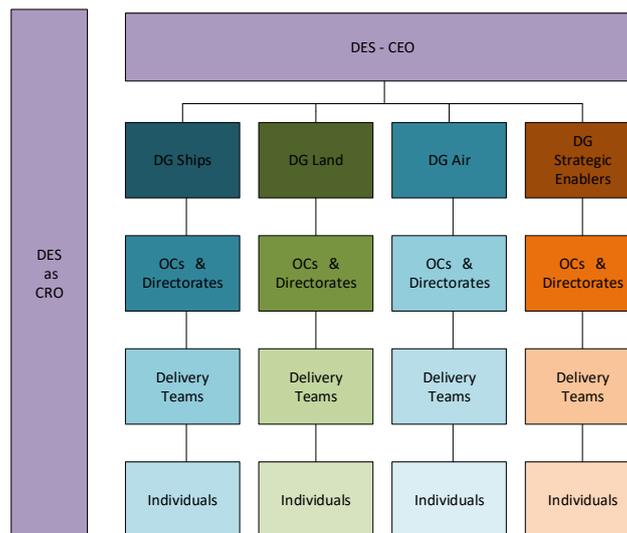
⁵ For example, by ensuring the tasks in the annex to 2021DIN06-006 are carried out.

⁶ These may be DE&S employees or contractors depending upon the task.

⁷ Will be updated as required.



20. The DE&S accountability chain for commercial diving safety is as follows:



GOVERNANCE & ASSURANCE

21. The assurance framework for DE&S' commercial diving activity is described below. Each area having responsibility for commercial diving is to have an appropriate process in place to ensure compliance as stated in DSA02-DMR:

- 1st Party Assurance (1PA) – Self-assurance conducted by those managing the activity, conducted wholly within the same organisation. For DE&S, this is the responsibility of the Domain undertaking for the activity. Where activity crosses more than 1 domain, the responsible domain shall be clearly identified in the Domain(s) Diving Safety Management plan(s). Assurance and oversight activity shall be conducted throughout the accountability chain, including the contractor and sub-contractors through to end point.
- 2nd Party Assurance (2PA) – Undertaken by specialists outside of the immediate line management chain and separated from the activities being assured,

but still within the organisation. This activity will be conducted by the DE&S Chief Environment & Safety Officer (CESO) team, with appropriate Subject Matter Expert support. SALMO activity will continue to be audited by Defence Diving Standards Team (DDST).

- 3rd Party Assurance (3PA) – Undertaken by persons, including Defence Regulators, fully independent of line management or the organisation to verify effectiveness of an organisations HS&EP management arrangements. For DE&S, this will be the **Defence Maritime Regulator** directly or the **Defence Diving Standards Team (DDST)** acting under the authority of the regulator.

Diving Safety Management Committee

22. The DE&S Diving Safety Management Committee (DSMC) will comprise of domain representatives and key personnel with diving safety responsibilities from across the business and provide a forum within DE&S for identifying and highlighting relevant diving safety matters.

23. The DSMC will ensure that the DSMS requirements are implemented, that DE&S conforms with statutory and defence regulation requirements and is as safe as reasonably practicable for all diving activities.

Continuous Improvement

24. DE&S will make every reasonable effort to improve diving safety at all levels of the organisation. The DSMC will have an important role in monitoring and measuring improvement and review incident reports for lessons learned.

Further Guidance

25. The Chief Environment and Safety Officer (CESO) is DE&S' corporate point of contact for further guidance and information and will seek SME support as necessary.

- Email: DESCEO_OHSEEXEC@mod.gov.uk

26. This document should be read in conjunction with the OHSEMS Policy & Guidance 'Management of DE&S Diving Activities'⁸ which includes the Terms of Reference for the DSMC.

REFERENCES

Legislation

- [The Health and Safety at Work etc. Act 1974](#)
- [Management of Health and Safety at Work Regulations 1999](#)
- [Diving at Work Regulations 1997 \(DWR97\)](#)
- [The Merchant Shipping \(Diving Safety\) Regulations 2002](#)

MOD

- [DSA02-DMR – Defence Maritime Regulations for Health, Safety and Environmental Protection](#)

⁸ [Link to DE&S OHSEMS](#)

- [JSP 375 - Management of Health and Safety in Defence](#)
- [2021DIN06-MOD Guidance on Statutory Compliance & Assurance of Commercially Contracted Diving](#)
- [MOD Diving Safety Website \(DDST\)](#)

Guidance

- [ACOP - Commercial Diving Projects Offshore L103](#)
- [ACOP - Commercial Diving Projects Inland/Inshore L104](#)
- [ACOP - Media Diving Projects L106](#)
- [ACOP - Scientific and Archaeological Diving Projects L107](#)