



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 through 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 in place within DE&S to discharge its responsibilities in relation to the acquisition of 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.

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

¹ DWR 97 Regulation 4 Duty to ensure compliance

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

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 DWR 97 and DSA 02 are understood and met. This policy is applicable to all DE&S personnel with responsibility for the management of diving safety through the use of commercial diving services where DE&S is the contracting authority.

9. Domains should use their own process(es) to manage diving activities under their direct or vicarious control which must be consistent with the intent of this policy document. 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.

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
 - (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 directly or vicariously conducted); and
 - b. Client responsibilities arising from designing, building and maintaining Products, Systems or Services (PSS).
14. Diving conducted by DE&S employed divers (i.e. SALMO) is not covered by this policy. Additionally, diving which occurs on a DE&S site but not contracted for by DE&S (e.g. diving conducted by divers contracted by the Defence Infrastructure Organisation to undertake maintenance) is not covered here but should form part of the overarching Head of Establishment assurance activity to ensure safe systems are being employed on site.

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 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:
 - Participating 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 focused policy on how any diving activity should be conducted and assured across the domain;
 - 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 following text from Defence Maritime Regulations is included where commercial diving activity is directly or vicariously contracted.
 - *All diving operations, within the United Kingdom, and all associated diving personnel including sub-contract personnel, shall be compliant with the DWR97 and appropriate Health & Safety Executive (HSE) Approved Code of Practice and Guidance relevant to the nature of the diving project. For overseas, MOD contracted diving operations shall comply with the laws of host states, where they apply, and in circumstances where such requirements fall short of DWR97 shall apply UK standards as far as it is reasonably practicable to do so. This shall include but not be limited to the requirement that:*

- *The main or Principal Contractor shall provide an evidenced demonstration to the Client that they have satisfied themselves that their diving contractor has discharged its duties under the DWR97 and is suitability qualified and experienced to undertake activities under the Contract;*
- *The Client reserves the right to independently satisfy itself of the Contractor's or diving contractor's suitability.*
- *Prior to commencement of any diving activity, the Contractor shall provide a detailed Diving Project Plan, and Risk Assessment to the CRO Project Manager or their authorised representative.*
 - "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** – This 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 Representative³ 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 demonstrably competent for the task.

DIVING SAFETY MANAGEMENT SYSTEM

16. DE&S is engaged in a broad range of commercial diving operations which may be directly contracted for 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 and DE&S must therefore demonstrate that its 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 its 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.

³ These may be DE&S employees or contractors depending upon the task.

19. Particular care should be taken where indirect/vicarious 3rd Party diving activity is being undertaken as this may not be directly obvious. Examples include where DE&S contracts for maintenance of equipment or an establishment where diving could reasonably be expected but not specifically identified as a requirement (e.g. retrieval of items from water following a trial, inspection of pumps in a body of water etc.).

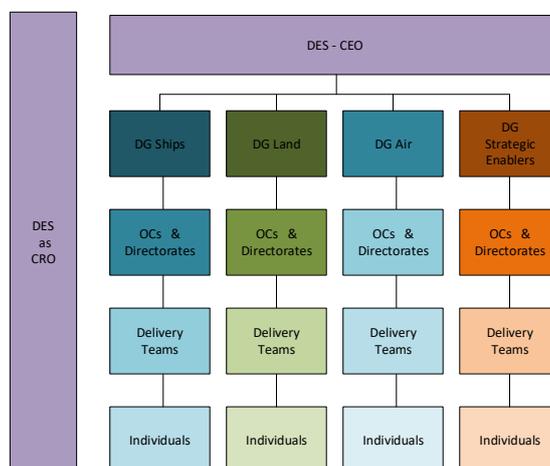
20. Where DE&S contracts for diving activity, either directly or vicariously, the individual who is accountable for the diving operation is responsible for ensuring an effective system of controls is in place. This should be documented and delivered through a resourced Safety and Environmental Management Plan (SEMP) or similar document. The SEMP should consider the following aspects:

- a. Scope of diving activity;
- b. Roles and responsibilities (DE&S & MOD personnel, contactors etc);
- c. Relevant legislation, Defence Regulation and MOD/DE&S policy;
- d. Management of diving projects;
- e. Conduct of diving operations - Dive Plans, Safe Systems of Work, Risk Assessments, equipment safety and maintenance and emergency arrangements including first aid and extraction;
- f. Organisation/Infrastructure Interfaces;
- g. Training requirements; and
- h. Assurance arrangements (covering both the diving activity(s) and the effectiveness of the SEMP).

21. As a minimum within DE&S, the following areas will be expected to demonstrate suitable and sufficient arrangements are in place to meet its CRO responsibilities:

- Salvage and Mooring Operations (SALMO);
- Naval Ships Support (NSS);
- Future Maritime Support Programme (FMSP); and
- Test, Evaluation Services and Targets (TEST) Project Team (covering the Long-Term Partnering Agreement (LTPA)).

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



GOVERNANCE & ASSURANCE

23. Notwithstanding the requirements imposed by the Defence Regulations where DE&S has CRO responsibilities, 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 Audit (1PA) – Self-audit 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 Audit (2PA) – Normally, this would be undertaken by specialists outside of the immediate line management chain and separated from the activities being assured, but still within the organisation. However, due to the limited availability of diving SQEP, current arrangements are that the **Defence Diving Standards Team (DDST)** will conduct this on behalf of DE&S. This will be primarily focused on governance arrangements for the management of commercial diving activity.
- 3rd Party Audit (3PA) – Undertaken by persons, including Defence Regulators, fully independent of line management or the organisation to verify effectiveness of an organisation's 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.

24. Where DE&S has CRO responsibility, it must independently satisfy itself of the Contractor's or diving contractor's suitability. Prior to commencement of any commercial diving activity, the Contractor shall provide a detailed Diving Project Plan, and Risk Assessment to the DE&S CRO Project Manager or authorised representative.

25. Where diving services are contracted by a maintenance organisation (e.g. Defence Infrastructure Organisation) but undertaken on a site where DE&S has Head of Establishment (HoE) responsibility (e.g. to maintain underwater pumps), the contracting organisation is responsible for conducting the necessary assurance in line with the Defence Maritime Regulations and to provide that assurance to the HoE to satisfy duty of care requirements under statute.

26. Further assurance shall be provided through the established performance management regime (e.g. Ships Safety and Environment Assurance System, DE&S Performance Indicator 2a and 4a).

Diving Safety Management Committee

27. 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.

28. 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

29. DE&S will make every reasonable effort to monitor and 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

30. 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

31. This document should be read in conjunction with the [OHSEMS Management of DE&S Diving Activities Policy & Guidance](#) 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](#)
- [JSP 286 - Defence Diving Manual Part 1: Directive V2.0](#)
- [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](#)