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To
 All FOD Inspectors
 HID Inspectors CD and LD 1-5 (Bands 1-4)
 NSD Inspectors (Bands 1-3)

INSPECTING THE MINISTRY OF DEFENCE

This OC describes the legal framework and the inspection arrangements agreed between HSE and the Ministry of Defence (MOD), sets out the issues which are likely to arise during inspection and investigation, and reminds inspectors of other guidance. MOD agencies are listed and FOCUS client numbers provided.

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.. LEGAL BACKGROUND

.. **Application of legislation**

1 The Health and Safety at Work etc Act 1974 (HSW Act) and the subordinate regulations apply to MOD, its agencies and the armed forces within the baseline of Great Britain ([see para 19](#)). Although the majority of regulations made under HSW Act provide for the Secretary of State for Defence to claim exemption on behalf of the armed forces, in the interests of national security, in practice this has very rarely been exercised.

2 The application of health and safety legislation to HM ships is explained at [Appendix 1](#).

.. **Crown immunity**

3 The HSW Act s.48 exempts Crown employers from the provisions relating to statutory notices, prosecution and penalties. Administrative arrangements in lieu of enforcement (Crown notices and Crown censure) will be given in a separate SIM. Enforcement action against Crown employers between 1996 and 1999 is given in [SIM 7/1999/23](#). Thirteen Crown notices and 5 censures were recorded against MOD and its agencies within that period.

.. **Defence Imperative**

4 One of the main principles of the General Agreement ([see para 7](#)) is that HSE will consider the requirements of the Defence Imperative - the need to undertake hazardous training in the national interest - as well as cost, when making judgements about reasonable practicability.

.. **Reportability of accidents, and powers of inspectors**

5 Cases of disease and accidents to members of the armed forces of the Crown or to members of visiting forces, when on duty, are not reportable under the Reporting of Injuries, diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). Similar events involving civilian employees and accidents leading to death or hospitalisation of members of the public are reportable.

6 Inspectors may, nevertheless, investigate accidents to members of the armed forces which come to light through voluntary reporting by MOD or in other ways.

... GENERAL AGREEMENT BETWEEN MOD AND HSE

7 When HSW Act came into force there was a widely held perception within MOD that health and safety regulation was incompatible with some of their activities, and concern that HSE actions might affect operational capability. Against this background HSE and MOD negotiated an administrative agreement, known as the General Agreement. This was signed in 1981 by the Director General of HSE and MOD's Second Permanent Under Secretary. Under the 1981 Agreement MOD recognised the need to observe HSW Act. HSE agreed to take the Defence Imperative into account in considering the reasonable practicability of precautions, to observe security requirements, and not to seek to monitor observance of health and safety legislation in defence operations and military training.

8 In 1994 the Crown, Fire and Police NIG put forward a case for reviewing the General Agreement. The NIG argued that the existing agreement left considerable scope for interpretation, particularly as to what constituted 'defence operations' and 'military training activities'. It meant that a range of work inspected by HSE elsewhere was not inspected when carried out by MOD. This created inconsistencies where contractors working in operational units were subject to inspection but MOD personnel were not. It also did not reflect the fact that HSW Act applied to all of MOD's activities; or reflect changes in the climate of opinion about the accountability of public bodies and open government.

9 Consequently the General Agreement was revised, and a copy of the current version is given in [NIGM 7/B/1998/14](#). There is an undertaking to carry out a joint review every 2 years.

__ Main principles of the Agreement

10 Under the revised Agreement, which assumes conditions not amounting to armed conflict::

- (1) There is no general constraint on HSE access to MOD sites, training or operational activities;
- (2) MOD recognises its duties under HSW Act in relation to all units, establishment and activities;
- (3) MOD states that where it has been granted exemptions from specific regulations it is the policy of the Secretary of State for Defence that health and safety standards and arrangements will be, so far as is reasonably practicable, at least as good as those required by statute;
- (4) HSE will consider the requirements of the Defence Imperative as well as cost when making judgements about reasonable practicability;
- (5) HSE will observe Government security requirements;
- (6) HSE will take account of the Code of Practice on Open Government and MOD security regulations when disclosing information. Classified information will not be disclosed except with prior discussion and agreement

with MOD;

(7) HSE inspectors who propose to invoke the administrative procedures for the formal censure of government departments in relation to MOD will consult the Crown and Police Unit (CP Unit), who will inform MOD's Directorate of Safety, Environment and Fire Policy (DSEF Pol) if such action is to be taken;

(8) Disagreements between MOD and HSE about the application of the General Agreement which cannot be resolved locally will be put to the MOD/HSE Joint Liaison Committee (JLC) if necessary;

(9) The JLC will seek to reconcile conflicts between the Defence Imperative and health and safety legislation, discuss proposals for new health and safety legislation and deal with problems arising from the implementation of the General Agreement.

11 Annex A of the Agreement sets out procedures to be followed in arranging, carrying out and reporting on inspections. Annex B deals with arrangements for specified nuclear sites. Annex C deals with arrangements for inspection of ships and submarines. Annex D deals with arrangements for particularly sensitive activities.

__Access to ships and aircraft

12 It would be exceptional for a ship to be inspected other than when tied up or in dock. Naval vessels are considered to be under the control of the captain even when in dock, and permission should be sought before going on board.

13 The HSW Act applies to military aircraft in flight within the baseline. However, HSE's policy is not to seek to investigate issues relating to airworthiness or aircraft crashes. Nevertheless, other issues relating to the health and safety of members of aircraft crew or ground staff may be of interest to HSE, and these cases will be discussed with DSEF Pol before approaching the operational unit concerned.

__Security considerations

14 When making an appointment to visit, inspectors may be questioned as to their security clearance. Nominally, all inspectors are cleared at 'basic check' level. Where MOD requires a higher level of security clearance, inspectors may apply to the HSE Departmental Security Office for 'security check' or 'developed vetting' clearance. Alternatively, the visit may be taken over by an inspector having higher security clearance, or aborted. MOD can check the inspector's security clearance by contacting HSE's Departmental Security Office on 0151 951 4203. Information on security clearance is contained in HSA Note 16/1995.

15 Inspectors should not seek access to sites, parts of sites, equipment or documents requiring a high level of security clearance unless this is essential for HSE's purposes (HSE/MOD General Agreement Annex D).

16 Inspectors should be accompanied at all times on MOD sites, and should not seek to take photographs without permission from the commanding officer (CO) or establishment security officer.

17 Many MOD documents carry security markings. 'Restricted' documents must be kept under lock and key. Further information is contained in the [HSE Staff Handbook Chapter 4 Appendix 3](#).

.. Access to construction sites

18 It has been agreed that inspection of construction sites on MOD premises falls within the General Agreement and must be by appointment. However, where sites are set up with separate entrances under the control of the contractors, inspectors may visit without appointment.

... ENFORCEMENT LIMITS

... Limits of HSE jurisdiction

... 19 The baseline of Great Britain includes estuaries and designated coastal waters. The Health and Safety at Work etc Act 1974 (Application Outside Great Britain) Order 1989 also extends HSW Act to certain activities in designated territorial waters.

.. Inspection demarcation within HSE

20 The majority of MOD sites are inspected by FOD services groups.

21 Manufacture and licensed storage of explosives on MOD sites is inspected by HID Explosives Inspectorate. This may be limited to an enclave within a site inspected by FOD; but where manufacture or storage of explosives is the main activity, there may be no requirement for FOD inspection.

22 Arrangements for inspection of nuclear sites where there may also be FOD and HID involvement are given in [OM 1996/126](#), which should be read in conjunction with the General Agreement Annex B.

23 Certain MOD laboratories working with hazard group 3 and 4 pathogens and genetically modified organisms are inspected by TD6. See [OC 349/8](#) (Primary inspection responsibilities for premises carrying out work with dangerous pathogens, [OC 349/6](#) (The genetically modified organisms (contained use) Regulations 1992 and 1993) and [OC 349/7 \(Rev\)](#) (The Genetically Modified Organisms (Deliberate Release) Regulations 1992, SI 1992 No 3280 as amended in 1995 and 1997).

24 The Offshore Division Diving Group is responsible for inspecting all MOD diving activities.

... SAFETY OF INSPECTORS

25 FOD inspectors should refer to FOD Health and Safety Policy Supplements 00 and

02. Other inspectors should be familiar with the Safety Policy and supplements of their directorates/divisions.

26 Inspectors should make sure they are accompanied by an MOD representative familiar with the hazards likely to be encountered and the procedures for securing the safety of visitors.

__STRUCTURE OF THE UK ARMED FORCES

27 [NIGM 7/B/1998/07](#) describes the structure and organisation of the armed forces.

__VISITING FORCES

28 Inspectors may encounter United States Visiting Forces (USVF) occupying Naval and Air Force bases on long-term, full-repairing leases. As landlord, MOD may retain duties under HSW Act ss.3 and 4, eg with regard to control of asbestos and the fencing of sites. In general, MOD try to pass these responsibilities to the tenant under the terms of the lease.

29 Visiting forces of many nations also participate with British forces in NATO training exercises; and individuals from overseas forces attend training courses in Great Britain.

30 Inspectors may therefore be called upon to inspect or investigate activities involving visiting forces with or without MOD involvement.

31 As with MOD, visiting forces are subject to HSW Act, but formal enforcement procedures cannot be used. There is no equivalent to Crown notices or Crown censure for visiting forces.

32 In 1989 HSE, MOD and USVF entered into The Visiting Forces Agreement, in which USVF agreed to extend full protection, rights and responsibilities of HSW Act to UK civilian employees and agreed to allow HSE to monitor observance by USVF of health and safety legislation. The Agreement is currently under review (2000) as an adjunct to the biennial review of the MOD/HSE General Agreement.

33 The Construction (Design and Management) Regulations 1994 (CDM Regulations) apply to construction work carried out by or on behalf of USVF. Provided that USVF make the appropriate appointments, UK companies or individuals acting as planning supervisor or contractor are subject to their CDM duties and these can be enforced. UK designers working for USVF also have enforceable duties including making their client aware of the CDM Regulations.

34 The Visiting Forces Agreement is confined to US forces. Units and individuals of other nationalities are equally subject to HSW Act, but there is no provision for inspection. This need not prevent inspectors from investigating accidents or complaints where these foreign nationals appear to be duty holders or material witnesses. The CP Unit should be consulted.

__CADETS

35 Inspectors should refer to [SIM 7/2000/10](#) for information on the Army Cadet Forces, Combined Cadet Force, Sea Cadets and Air Training Corps. The Activity Centres (Young Persons' Safety) Act 1995 does not extend to the Crown, so the Adventure Activities Licensing Regulations 1996 do not place any obligation on the Crown to hold a licence, or on Crown servants who provide facilities for adventure activities in the course of their duties. Cadet Force officers are Crown servants while on duty.

.. MOD's INTERFACE WITH THE PUBLIC

36 Apart from cadets, there are other circumstances in which the activities of the MOD may impinge on the general public, triggering their duties under HSW Act s.3. For example, it is usual for them to set up recruitment exhibits at shows, such as abseil and climbing walls for members of the public. As Crown employers they fall to HSE enforcement even when the show is under local authority enforcement. In 1996, a child spectator died when he was run over by a Territorial Army lorry at Northampton Balloon Festival. Public participation in adventurous activities organised by the MOD, such as obstacle courses, can also present significant risks: a woman taking part in a Business Challenge event in 1997 had a finger amputated when it became caught in a fence which she was climbing.

37 All Army divisional areas have Army Youth Teams, usually consisting of a captain and 6-12 soldiers. They visit schools to inform children about careers in the Army, and provide children with opportunities for camping (sometimes in conjunction with the Scout movement) and moderately adventurous activities.

38 The Royal Logistics Corps Recruiting and Liaison Staff run a program involving 'Look at Life' visits by school children to the RLC Training Centre at Deepcut, Surrey. One such exercise in 1999 resulted in a paint-balling accident, from which a boy lost the sight in one eye.

39 The lesson to be learned from all of these incidents is that MOD should carry out a thorough risk assessment for every public participation event, bearing in mind that civilians with varying levels of physical ability, not Service personnel, are taking part. The MOD staff running the event should be made aware of the outcomes of the assessment.

40 As well as MOD participation in special public events, there are risks to the public presented by MOD's widespread military training activities. There is public access to many weapons training areas in Great Britain, such as Dartmoor and the coastal ranges, and risk assessments must cover public risk such as that presented by unexploded ordnance or unsafe buildings.

... YOUNG PERSONS IN THE ARMED FORCES

41 MOD has been subject to criticism for recruiting persons under 18 for military service. There is pressure to update the appropriate United Nations convention, raising the minimum age from 15 to 18. This may, at times, be a factor behind complaints to HSE.

42 MOD policy is to recruit at age 16 plus, but not to deploy for operational duty in ships or overseas under the age of 17. For some operational theatres, including Northern Ireland, the age limit is 18.

43 Operational duty overseas or in ships outside the baseline would, in any case, remove personnel from the direct protection of HSW Act, although the Secretary of State's policy to maintain equivalent standards would apply.

44 Operational work within Great Britain, such as emergency aid to the Civil Power, is subject to HSW Act, although the General Agreement does not allow HSE to inspect it. This need not prevent inspectors from enquiring into the risk assessments and procedures involved.

45 Policy on deployment of those under 18 to hazardous training or work within Great Britain varies between the 3 armed forces and from unit to unit. Service personnel may be engaged in work such as guard duty, maintenance of equipment or driving, which are neither training nor operations.

46 Civilian lower age limits for driving vehicles in public places do not apply to the armed forces.

47 MOD did not seek exemption from the specific requirements relating to young persons in the Management of Health and Safety at Work Regulations (MHSW Regulations) 1999. Inspectors will therefore need to be assured that appropriate risk assessments are in place, including those for young persons.

48 MOD may argue that arrangements for recruits always allowed for their lack of experience and maturity and that no change was necessary to comply with the above legislation.

__POLICE FORCES IN THE MOD

49 The Ministry of Defence Police, an agency, is a statutory civil police force with a particular responsibility for the security and policing of MOD property and personnel.

50 The Royal Military Police, part of the Adjutant General's Corps, is the Army's police force whose role encompasses:

- (1) the provision of garrison police facilities;
- (2) law enforcement and crime prevention; and
- (3) tactical military police support to the Army in military operations.

51 The Royal Air Force Police, Naval Provost Marshals, and Royal Marines Police perform similar functions for their respective Services.

52 The Military Provost Guard Service, again within Adjutant General's Corps, re-enlists retired soldiers to perform armed guarding duties at MOD bases.

__FIRE SERVICES IN THE MOD

53 The Defence Fire Service (DFS), headed by the Chief Fire Officer, is part of the MOD DSEF Pol. The Defence Fire Service has overall responsibility for fire policy throughout MOD, and includes the MOD Fire Services Inspectorate. Operational control of fire fighting activities is devolved to fire focal points in the Army, Royal Navy, Royal Air Force, Defence Logistics Organisation, Defence Estates and Defence Procurement Agency, headed in each case by an assistant chief officer.

__MOD CENTRAL

54 MOD Central is a substantial employer of civilian staff, mainly in the office environment, but also the MOD Guard Service and Defence Works Services staff. Inspectors will encounter MOD Central Services staff as minor incumbents at many MOD sites.

__MOD AGENCIES

55 With the exception of operations, much of the work of MOD has been devolved to Next Steps agencies. These vary in character, particularly in the extent to which they are civilianised and distinguishable from conventional military structures. Agencies develop over time and may move from operating within an armed forces top level budget to achieving the status of Trading Funds.

56 Some agencies operate within one of the armed forces; eg the Army Training and Recruitment Agency within Army Quartermaster Generals (QMG) Command.

57 Some agencies operate within joint forces organisations; eg Defence Aviation Repair Agency within Defence Logistics Organisation. The Defence Secondary Care Agency provides medically trained secondary care service personnel to all branches of the armed forces.

58 The Defence Evaluation and Research Agency (DERA) derives its authority directly from the Secretary of State and is thus further removed from the armed forces. Some of the non-core work of DERA has been contracted to COMAX, operating in the private sector, and further privatisation (Public Private Partnership) of DERA is under consideration following the Strategic Defence Review. Inspectors may refer to [NIGMs 7/B/1998/8](#) DERA and [7/B/1998/12](#) COMAX.

__ 59 A list of MOD agencies, taken from the 1999 Civil Service Yearbook, and relevant FOCUS client numbers is given at [Appendix 2](#). The number of staff employed in MOD agencies is given at [Appendix 3](#).

__ FOCUS RECORDING

60 FOD inspectors and administrative staff should not create new client records for MOD establishments or agencies. The CP Unit is responsible for the client records and will advise in cases of difficulty.

61 The FOCUS client numbers for MOD agencies, including MOD Police, are given at [Appendix 2](#). The Defence Logistics Organisation (DLO) has no client record. Undertakings within DLO establishments are conducted by agencies such as NBSA and contacts should be recorded against those agencies. The client records for the armed forces (with Departments as letter lists) and for MOD itself are as follows:

(1)	MOD Royal Navy	60106245
(a)	Second Sea Lord (incl Naval Training)	
(b)	Naval Support Command	
(c)	C-in-C Fleet (incl ships, subs, RFA, Royal Marines)	
(2)	MOD Army	60106210
(a)	Land Command	
(b)	Adjutant General (Personnel and Training Command)	
(c)	Quartermaster General	
(3)	MOD RAF	60106207
(a)	RAF Strike Command	
(b)	Personnel and Training Command	
(4)	MOD (Central Services)	20217034
(5)	MOD DSEF Pol	60180783
(6)	Defence Fire Service	20322786
(a)	DFS(Army)	
(b)	DFS(RN)	
(c)	DFS(RAF)	

	(d)	DFS(DPA)	
	(e)	MOD Fire Services Inspectorate	
	(f)	DFS(DLO)	
	(g)	DFS(DE0)	

__ HEALTH AND SAFETY ADVICE AND TRAINING WITHIN MOD

__ **Central health and safety advice**

62 Throughout MOD, health and safety at work, radiation protection, protection of the environment and fire precautions are treated as closely related issues.

63 Within MOD Central, DSEF Pol has the topic lead and consults with HSE through the Joint Liaison Committee. FOD (through the CP Unit), HID and NSD represent HSE on this committee, which reviews the General Agreement and addresses a wide range of issues including implementation of new legislation.

64 The Chief Environment and Safety Officer (CESO MOD) is Dr John Connor, a Senior Civil Servant with a seat on the Defence Council.

65 CESO MOD chairs the MOD Focal Points Committee. Focal Points are the principal safety advisers for the branches of the armed forces and the MOD agencies. They are members of the Joint Liaison Committee.

__ **Services health and safety advisers**

66 The RAF Focal Point (also CESO (RAF)) is Alan Cordory, based at RAF Innsworth, Gloucester. He covers Strike Command and Personnel and Training Command.

67 Major RAF stations have full-time health and safety advisers trained to NEBOSH Certificate or Diploma standard. They are supported by CESO (RAF) and also provide a service to minor RAF stations in their area.

68 The Royal Navy Focal Point (CESO(RN)) is Randy Keir, based at Portsmouth Naval Base (from May 2000). He covers Commander-in-Chief Fleet and Second Sea Lord ([see para 59](#)). Commander-in-Chief Fleet includes the Royal Marines, who have their own Focal Point, Major Tom Warren.

69 The Defence Logistics Organisation has its own Focal Point, Dr Adrian Ferrier, based at Ensligh, Bath. He covers the agencies which operate under the DLO umbrella, and which have taken over the logistic and maintenance functions of the

armed forces.

70 There are Naval Base Health and Safety Groups, each with several full-time advisers, at Portsmouth, Plymouth and Faslane. They are within the DLO structure.

71 The Army Focal Point, Brig (ret) Cooper and CESO Army, Col McMahon lead the Army health and safety team, situated in HQ Land Command at Wilton.

72 The Army maintains Divisional Occupational Health Teams (which deal with health **and** safety) and there are part-time health and safety advisers at Brigade level.

73 Commanding officers (COs) of individual units have delegated health and safety responsibility and receive some health and safety training, both on appointment and at periodic seminars. They are generally supported by their quartermasters (QMs), who act as the local health and safety focal point and also receive training. However, both COs and QMs have many other duties.

__ Health and safety training

__ 74 Policy on health and safety training is set out in the MOD Health and safety handbook, JSP 375 ([see para 111](#)). The agencies and the 3 armed services all have separate arrangements for health and safety training.

75 In the Army, District or Divisional Health and Safety Focal Points undertake British Safety Council (BSC) or NEBOSH Diploma courses. The Army runs a 14-day Unit Safety Advisers' Course at Deepcut, leading to a British Safety Council Certificate in Safety Management. Typically, QMs will have this qualification, and the course is also popular with soldiers preparing for civilian second careers. Three-day health and safety courses for line managers (ranks from sergeant to major) are also held at Deepcut and Arborfield, and training is given to COs before they take up their first command. The RAF runs a safety management course for line managers at RAF Halton.

76 All soldiers and civilian staff receive locally delivered, annual refresher training, the health and safety content of which typically covers safety awareness and manual handling, and is of less than one day duration.

__ PROGRAMMED INSPECTION OF MOD ESTABLISHMENTS

__ Inspection strategy

77 In originally negotiating the General Agreement, HSE placed considerable emphasis on the fact that current inspection practice did not involve the physical examination of all an employer's activities, but that inspectors would enquire into health and safety management systems and use sample inspections for verification. Annex A states that, by their nature, most military operations and training do not lend themselves to inspection by observation. However, inspectors will wish to enquire about issues such as the arrangements for managing hazardous training, and at times to inspect other operational activities.

78 Inspectors may wish to adopt the following inspection strategy for visits to MOD establishments:

- (1) Inspection plans should not be distorted by selection of premises simply because they have a concentration of operational work.
- (2) Operational activities should be inspected as they are encountered during routine work.
- (3) Inspectors should not actively seek to inspect military exercises or hazardous training by observation, but should discuss the management and control of such activities and respond positively to invitations to view them for familiarisation.
- (4) If inspectors become aware of accidents that have occurred during operational activities, these should be selected for investigation if it is considered that the investigation will be of benefit.
- (5) Inspectors should exercise considerable sensitivity to defence needs when dealing with operational activities.

79 HSE has undertaken that inspections will be by appointment. Inspectors should contact the CO to make an appointment, and explain the purpose of the visit so that the CO can arrange for appropriate staff to be present. Where there is an established line of communication, eg with the QM, following a previous visit, it is sufficient to make an appointment through the known contact.

___Management inspection and audit

80 Many MOD establishments have not been inspected since the 1996 revision of the General Agreement gave better access to training activities. MOD structures have changed materially in the intervening period, and there have been significant changes in health and safety management and the provision of health and safety advice and support.

81 The Services Sector Strategic Plan encourages all FOD divisions to undertake health and safety management inspections of significant MOD establishments every year. The main measure of success will be the preparation and implementation of action plans to address significant areas of non-compliance. Key indicators may be found in the SSSP and on the FOCUS Sector Objectives screen.

82 Inspectors should consult the CP Unit about plans for such inspections, and may seek advice on benchmarking. It is desirable to avoid concentration on any one agency or branch of the armed forces to the exclusion of others, and the CP Unit has undertaken to try to avoid major inspections of MOD units at times when they are being inspected for other purposes.

83 Management inspections not only help to ensure compliance within the particular establishment. Other benefits are:

(1) they sharpen concentration on health and safety performance throughout the command or agency and support the work of the internal health and safety advisers.

(2) they provide feedback to the Sector, which assists benchmarking and allows national issues to be addressed at a higher level.

(3) They provide inspectors with the knowledge and competence to deal with further inspections and, crucially, investigations.

84 Divisional audit, as described in the *FOD Guide to the Inspection of Health and Safety Management*, has been successfully applied to MOD establishments. MOD safety staff are familiar with the methodology of HS(G)65 *Successful health and safety management* (file 200), and reports couched in those terms are entirely appropriate.

85 These inspections offer opportunities to include the control of contractors and inspect a range of lodger units such as recruiting teams and entertainment facilities.

__Inspection of workplace precautions and risk control systems

86 Vertical sampling of workplace precautions and risk control systems for premises and for training can be combined with divisional audit, or undertaken separately, eg when visiting in connection with an accident or complaint.

87 Standards for workplace precautions should generally be equal to those in civilian undertakings. Specifically military risk control systems, such as the control of ammunition for live ('wet') and blank ('dry') firing, need to be considered from first principles, on the basis of risk assessment.

__Inspecting contractors

88 Contractors engaged in a wide variety of tasks including construction, maintenance, cleaning and catering are usually to be found at MOD establishments.

89 The CDM Regulations are fully applicable to qualifying MOD projects. The occupier of the establishment may not be the client in CDM terms and may have no knowledge of the client duties. Project management and the planning supervisor role are typically entrusted to one of a small number of companies, who will have an office on the establishment when substantial work is in progress.

90 Minor construction works are usually let to a term contractor, who may have staff permanently in place.

91 MOD has introduced the 'Four Cs' system for managing contractors in a number of disciplines. This has echoes of CDM and MHSW Regulations in that it seeks to establish control, co-operation, coordination and communication. However, MOD Army has not adopted the system for 'low risk' activities such as cleaning and catering.

92 Sub-contracting, which can allow relatively incompetent persons to operate with little

supervision, for example in mess kitchens, is perceived to be a problem at some establishments.

93 Commanding officers have it within their power to impose standards on contractors and to exclude incompetent workers. A valid consideration is whether the safety culture within the establishment is such as to allow dangerous work by contractors to go unreported and unchecked.

__REACTIVE INSPECTIONS

94 The General Agreement recognises that a greater degree of urgency will attach to reactive visits by inspectors.

__Investigating accidents

95 Accident investigations should follow the appropriate quality system procedure, but may be hampered by non-application of RIDDOR, the mobility of MOD personnel, remoteness of sites, and the involvement of a number of other agencies.

96 Any difficulty in carrying out investigations, particularly if deliberate delay or obstruction is suspected, should be discussed with the CP Unit, who will intervene with DSEF Pol.

97 RIDDOR reports are currently limited to accidents/ill-health involving civilian employees and accidents involving death or hospitalisation of members of the public. Investigation of these should be straightforward, but other agencies may be involved in serious cases (see para 99). Accidents to service personnel are currently not reportable, but serious accidents usually come to the attention of HSE in other ways.

98 The Army Training Accident Investigation Team (TAIT) investigates serious accidents and munitions incidents in training, including some involving cadets and the other armed forces. TAIT voluntarily discloses its reports to HSE via the CP Unit. Other reports reach HSE via the focal points and the news media.

99 Fatal training accidents are usually investigated by the following agencies:

(1) The civil police, who will collect evidence for the coroner, (inspectors will be aware of the different situation in Scotland), and attempt to satisfy themselves that foul play can be ruled out. If there is a suspicion of foul play or work-related manslaughter, the police will continue the investigation and report to the Crown Prosecution Service. Occasionally the police will drop an investigation but take it up again in the light of the findings of the coroner's inquest.

(2) The MOD police ([see para 47](#)). They have been known to perform the criminal investigation function in place of the Home Office police forces. Like them, the MOD police have uniformed and CID officers.

(3) The Royal Military Police, and their equivalents in the Navy, Marines and

RAF. They wear service uniforms as distinct from police uniforms. They may take suspects into custody, and will investigate with a view to disciplinary action by the CO or courts martial for serious offences against military law. Again these police have the equivalent of CID (Special Investigation Branch, SIB, in the Army).

(4) Training Accident Investigation Team. The TAIT comprises a corps of retired officers, supported by subject matter experts (SME) drawn from specialist military units. For example, an SME from the Small Arms School Corps will help investigate an accidental shooting. TAIT's remit is not to apportion blame or prepare evidence for proceedings, but to find out what went wrong and recommend a rapid solution to stop it happening again.

100 Ammunition technical officers and staff of the Army Technical Support Agency will be involved where there is suspicion of defective ammunition or equipment.

101 Inspectors should not be deterred by the presence of any of the above from commencing an investigation, and should act promptly to secure evidence. The interaction with the police (civil or MOD) should be the same as following an accident at a civilian work place. The work-related deaths protocol for liaison applies ([see OC 165/8](#)), and difficulties should be referred to the Liaison Committee via FOD Heads of Operations and FOD FSU.

102 Inspectors should act promptly to require COs to make witnesses available for interview. Training accidents often involve units which move away, possibly abroad, shortly after the event. Witness statements should be taken unless inspectors are satisfied that statements taken by police are available and suitable.

103 In the General Agreement, HSE recognises that HM Forces have powers to deal with disciplinary charges against their members, eg courts martial. However, that should not prevent or delay inspectors in carrying out their investigations, while taking account of parallel investigations by the military police forces.

104 Nevertheless, where military police have charged and remanded a suspect for court martial, that person should not be interviewed without first consulting Solicitor's Office.

105 Inspectors considering prosecution of an individual should consult CP Unit, who will enquire into the possible complications if the same person is later court martialled.

106 The Training Accident Investigation Team has given an undertaking to CP Unit that they will not seek precedence over an HSE investigation. Although TAIT interview witnesses, they do not take statements as such. Inspectors wishing to commence an investigation ahead of TAIT (who usually move quickly), should establish contact with TAIT by phone to secure cooperation. Contact should be via CP Unit, but if necessary inspectors can contact TAIT direct on 01980 678500.

-- Investigating complaints

107 In many cases it will be possible to resolve complaints without visit, by contacting the CO, QM or safety adviser. The CP Unit will assist in making contact through the focal point network.

108 If a visit is required to resolve a complaint, inspectors should observe the terms of the General Agreement. If the subject matter is unfamiliar or the chain of command obscure, contact should be made with the CP Unit for further information.

__ENFORCEMENT ACTION

109 Since circumstances serious enough to require formal enforcement are likely to involve national issues or at least cause concern at other locations, CP Unit should be informed of action taken or proposed, and provided with copies of Crown notices and censure records.

110 Inspectors should use the same rigour in pursuing Crown enforcement as for statutory notices and prosecutions.

__Crown notices

__111 Inspectors should issue a Crown prohibition notice (notice that work should be stopped (risk of serious injury)) to Crown employers where, but for Crown immunity, a PN would be appropriate. However, where this might halt operations or training for operations, the matter should be taken up with the CO, according to the General Agreement.

112 Similarly Crown improvement notices can be used where INs would be used for employers in the private sector, particularly to secure compliance with MHSW Regulations regs.3 and 4.

113 Notices should be made out in the name of the client at the location address as per the FOCUS record, and served on the CO of the establishment or civilian equivalent. The CP Unit will be pleased to advise on MOD structures and benchmarks: advice on wording of notices should be sought from the usual sources.

__Crown censure

114 The agreed procedure for Crown censure will be described in future operational guidance, following the issue of a Cabinet Office circular to all Civil Service departments. A prosecution report should be prepared in the usual way.

115 When censure is proposed, inspectors should notify the CP Unit, who will inform DSEF Pol (when the timing has been agreed with the body concerned).

__MANAGEMENT OF HEALTH AND SAFETY WITHIN MOD

116 The arrangements described at paras 117-140, mainly based on MOD Army, were current at the time of writing. Inspectors are requested to provide the CP Unit with copies of reports for all management inspections of MOD Establishments, including

agencies, and inform the CP Unit if the situation is found to be materially different from that described below.

__Policy

117 MOD maintains a Safety Policy Statement (SPS) signed by the Secretary of State. A feature is that, where MOD has been granted specific exemptions, arrangements will be introduced which will be, so far as is reasonably practicable, at least as good as those required by the legislation. This also applies to MOD activities outside the baseline of Great Britain. The SPS is normally displayed at each establishment alongside the supplementary SPS of the CO or chief executive.

118 The successive levels of SPS clearly require managers to delegate health and safety duties to line management but to retain responsibility for ensuring that the duties are carried out.

__Organisation

__Control

119 Control is through line management, which is clearly defined in documentation and through military rank. However, health and safety issues relating to premises, reporting of accidents and some other matters are controlled through different channels.

120 The CO of an army barracks, naval establishment or RAF station accepts responsibility for health and safety within that establishment and exercises control, usually through the QM. However there may be many service personnel and civilians working there whose line management is elsewhere. For example, staff from Personnel and Training Command RAF working on a Strike Command Air Base.

__Cooperation

121 Civilian staff within MOD have the usual structure of safety committees, involving the Civil Service Unions. The Safety Representatives and Safety Committees Regulations 1977 do not apply to service personnel because there are no recognised unions. The Health and Safety (Consultation with Employees) Regulations 1996 do apply, but the representatives are appointed by the employer, not elected.

__Communication

122 The armed forces have comprehensive, written standing orders and procedures in several series. Some are Tri-service, eg Joint Service Publications (JSPs) and Defence Council Instructions (DCIs) and some are single service publications. The majority incorporate a certain amount of safety-related information within publications the main purposes of which are to improve efficiency, discipline and military effectiveness. The Army lists 13 series of official military publications.

123 These are supplemented by Daily Orders which are produced for each establishment and have occasional health and safety content.

124 The most important document is JSP 375, the MOD Health and Safety Handbook in 3 volumes. This should be available at all MOD establishments. Arrangements have been made for the CP Unit to hold a copy and receive the appropriate revisions. JSP 375 Volume 1 contains the safety policy statement and describes the organisations and procedures through which it is to be implemented. It includes sections on appointment, training and functional competencies of health and safety advisers. Volume 2 deals with specific instructions and guidance on health and safety legislation, and Volume 3 covers issues including health and safety management for line managers, safety committees and risk assessment.

125 Other important documents include:

- (1) JSP 403 *Handbook of defence land ranges safety*;
- (2) *Infantry Training Pamphlet 21* (Over 300 pages); and
- (3) DCI JS 59 *Heat illness in the armed forces: prevention and treatment*

126 Inspectors are likely to be concerned not about lack of information, but whether it is realistic to expect service personnel to have knowledge of all the appropriate publications.

__Competence

127 Competence to manage health and safety derives from the various levels of health and safety adviser described in [paras 62](#) onward, combined with the training given to managers, described in [paras 74](#) onward.

__ Planning and implementation

__ Risk assessment

128 JSP 375 Volume 3 contains instructions and forms for 3 types of risk assessment, general, generic and site, with additional forms for initial prioritisation of hazards and periodic review of assessments.

129 The armed forces differ from civilian employers in that risk assessment for training and operations is done at high level without necessarily informing the rank and file about the rationale. Laid down procedures are then produced for use in the field. Since these are disciplined forces, the assumption is that they will follow instructions and procedure without fail.

130 Difficulties arise, however, when personnel depart from procedure without understanding the possible consequences. A number of the most serious MOD accidents known to HSE have followed improvisation during training, usually with the best of intentions, but without re-assessment of risk.

__ Implementation of control measures

131 Over-reliance on disciplined adherence to safe systems of work rather than elimination, substitution and engineering controls may well be a weakness within MOD.

132 Generous provision of supervisors with powers to enforce safe systems of work is a strength within MOD. During hazardous training, safety staff are often in place. These may simply be non-commissioned officers (NCOs) from within the unit being trained, in which case they have to combine the functions of trainer, supervisor and safety staff. However, they may be drawn from a different section, platoon or company, and are thus better able to take an objective view of the safety performance.

133 High level risk assessment is intended to achieve standardisation of controls and safe systems within MOD. It is argued that, for example, soldiers from different units may find themselves thrown together for training or operations, and it would be highly undesirable for them to adopt different systems of work or expect different equipment.

__ Measuring performance

134 MOD strengths appear to be in systematic inspection of premises and direct observation of work to check compliance with risk control systems.

135 Absence of routine monitoring of health and safety objectives set appears to be an MOD weakness. The phrase 'management by exception' is used, indicating that if nothing is evidently wrong nobody checks whether it is actually right.

136 MOD has a computerised central accident reporting system, CHASP, which covers all accidents, including service personnel, but has different reporting criteria from RIDDOR.

137 Accident reporting under RIDDOR can be used as a measure of performance only as regards civilian employees. See [SIM 7/1999/19](#).

__ Audit

138 Use of audit is believed to be inconsistent. DSEF Pol and the Army Divisional Occupational Health Teams have the ability to provide objective audit.

__ Review

139 MOD instructions such as JSP 375 and Pamphlet 21 are frequently reviewed and revised. TAIT has a remit to recommend revisions following accidents, and to follow through and check results.

140 Documentation for local risk assessment includes a log sheet to show when risk assessments are due for review.

__ NATIONAL LIAISON WITH MOD

141 The CP Unit maintains regular liaison with MOD through DSEF Pol (see para 53) and can quickly get access to MOD focal points and SMEs. This liaison is central to the

General Agreement, and, if access to MOD activities is to be maintained and developed, it is important that inspectors keep the CP Unit, and thence DSEF Pol, informed of all significant contacts.

__REFERENCES

142 The following references are current at 31 July 2000:

SIM 7/2000/01	Index of current Services Sector information minutes
NIGM 7/B/1998/06	MOD land ranges and operational training
NIGM 7/B/1998/07	The Organisation of the Armed Forces
NIGM 7/B/1998/08	The Defence Evaluation and Research Agency (DERA)
NIGM 7/B/1998/12	COMAX Secure Business Services Ltd
NIGM 7/B/1998/14	1998 Review of MOD/HSE General Agreement
SIM 7/1999/19	Accident statistics for Crown Employers
SIM 7/1999/23	Enforcement action against Crown employers
SIM 7/2000/10	The Cadet Forces
HSA Note 16/1995	Personnel Security in HSE
HSE Staff Handbook Chapter 4 Appendix 3	Information Security in HSE
OM 1996/126	Inspection of non-nuclear hazards at nuclear sites
OC 165/8	Work-related deaths: Liaison with the police and Crown Prosecution Service
OC 349/6	The Genetically Modified Organisms (Contained Use) Regulations 1992

OC 349/7(Rev)	The Genetically Modified Organisms (Deliberate Release) Regulations 1992
OC 349/8	Primary inspection responsibilities for premises carrying out work with dangerous pathogens

Date first issued: 8 August 2000
 (220/FOD/1049/2000)
 Ref: J:/Editors/intranet/ocfiles/300_399/335_1.lwp

.. APPENDIX 1
 (para 2)

APPLICATION OF HEALTH AND SAFETY LEGISLATION TO HM SHIPS

1 The Health and Safety at Work etc Act 1974 applies within the mainland of Great Britain up to the baseline, as defined by the Territorial Waters Order in Council 1964 (as amended in 1979). HSE's interest in maritime work activities within territorial waters is limited to:

- (1) the loading, unloading, fuelling or provisioning of a vessel; and
- (2) inter alia, the refitting, repair, maintenance or cleaning of a vessel except when carried out by the master, any officer or crew member, as set out in HSW Act (Application Outside Great Britain) Order 1989.

Solicitor's view is that 'vessel' will include Royal Navy ships (RN ships).

2 Three of the '6-Pack' Regulations were disapplied from 'the master or crew of a sea-going ship or the employer of such persons', on the understanding that such ships were subject to separate Merchant Shipping legislation enforced by the Maritime and Coastguard Agency of DETR. The regulations concerned are the Management of Health and Safety at Work Regulations, Manual Handling Operations Regulations, and Personal Protective Equipment at Work Regulations. Royal Fleet Auxiliary (RFA) vessels may be registered, and hence subject to the disapplication.

3 The outcome of discussions between HSE and MOD legal advisors was agreement that this disapplication is not relevant to RN ships, so that the 3 sets of regulations listed in the previous paragraph will apply.

4 Of the remaining '6-Pack' regulations, the Workplace (Health, Safety and Welfare) Regulations do not apply to ships within the meaning of the Docks Regulations 1988, so they do not apply to RN ships. The Health and Safety (Display Screen Equipment) Regulations are disapplied from DSE on board a means of transport, so, again, they do not apply to RN ships.

5 That leaves the Provision and Use of Work Equipment Regulations (PUWER). In reg.3(6), there is a disapplication for a ship's work equipment, where 'ship' has a wide interpretation, including a Royal Navy vessel. However, certain regulations will apply in 'specified operations', where the work equipment is used by persons other than the master and crew, or where other people are put at risk by the work.

6 In these Regulations, 'master' is defined by reference to the Merchant Shipping Act 1995 as including 'every person (except a pilot) having command or charge of a ship', where 'ship' includes every description of vessel used in navigation. Thus, in this context, unlike the 6 Pack, the reference to master and crew does include commanders of naval vessels.

7 Apart from nuclear safety issues, HSE's interest in RN ships has centred on ship repair when in dry dock or moored alongside. The Shipbuilding and Ship- Repairing Regulations 1960 will apply to work carried out in a shipyard, and to repairs on ships moored in a harbour or wet dock. In the latter case, work carried out by the master or crew of a registered RFA vessel would be excluded, although that exclusion would not apply to RN ships.

8 The Docks Regulations 1988 apply to dock operations involving RN ships, such as loading and unloading, but there is a disapplication relating to plant on board ship, including naval vessels.

9 The Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) revoke those parts of the Docks Regulations which apply to testing, thorough examination and marking of lifting plant. There is, again, a disapplication from LOLER in relation to 'ship's work equipment', except for the positioning/installation of lifting equipment and organisation of a lifting operation where the equipment is used by persons other than the master and crew, or where other people are put at risk by the work. As with PUWER, 'ship' has a wide interpretation, including a Royal Navy vessel, and, using the definition quoted earlier, 'master' will include the commander of such a vessel.

10 The net result is that, with the exceptions given above, neither the Docks Regulations, PUWER, nor LOLER apply to lifting equipment aboard RN ships, although the general requirements of HSW Act will apply, in the circumstances outlined earlier.

11 More generally, the Control of Substances Hazardous to Health Regulations 1988, the Noise at Work Regulations 1989 and the Electricity at Work Regulations 1989 all contain a disapplication for the master and crew of a sea-going ship or the employer of such persons, but, as discussed earlier regarding the 6 Pack, this disapplication will not apply to Royal Navy vessels.

APPENDIX 2
(paras 59 and 61)

MOD AGENCIES

OC 335/1:: INSPECTING THE MINISTRY OF DEFENCE

AGENCY	ACRONYM	FOCUS Client No
Army Base Repair Organisation	ABRO	020216972
Army Technical Support Agency	ATSA	060169779
Army Training and Recruitment Agency	ATRA	020322509
Defence Animal Centre	DAC	020318256
Defence Aviation Repair Agency	DARA	020314296
Defence Clothing and Textiles Agency	DCTA	020245691
Defence Communications Service Agency	DCSA	020303146
Defence Estate Organisation	DEO	100204887
Defence Evaluation and Research Agency	DERA	020217114
Defence Housing Executive	DHE	020245405
Defence Procurement Agency	DPA	020309202
Defence Secondary Care Agency	DSCA	020280731
Defence Storage and Distribution Agency	DSDA	020314278
Ministry of Defence Police	MDP	020232981
Naval Base Supply Agency	NBSA	020322456
Naval Recruitment and Training Agency	NRTA	020322465
RAF Maintenance Group Defence Agency	RAFMGDA	020322483
RAF Training Group Defence Agency	RAFTGDA	020322492

... APPENDIX 3
(para 59)

EMPLOYEE NUMBERS IN MOD AGENCIES

Current at 1 April 1998: MOD 104,000 civilian staff of whom 60,000 in agencies

AGENCY	EMPLOYEE NUMBERS ON 1 APRIL 1998*		
	UNIFORMED	CIVILIAN	TOTAL
ABRO		2,700	2,700
ATSA		1,100	1,100
ATRA	7,400	4,500	11,900
DAC			60
DARA			**
DCTA		500	500
DCSA	300	500	800
DEO		1,100	1,100

OC 335/1:: INSPECTING THE MINISTRY OF DEFENCE

DERA	400	10,700	11,100
DPA			**
DSCA		700	2,300
DSDA			**
MDP		3,600	3,600
NBSA	4,100	7,800	11,900
NRTA	3,700	1,500	5,200
RAFMGDA	2,300	4,400	6,700
RAFTGDA	3,400	2,200	5,600

** = Formed on or after 1 April 1998

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