

LEAFLET 60**SELLING INTO WIDER MARKETS: ADVICE ON THE SAFETY INTERFACES WITH CUSTOMERS****CONTENTS**

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LEAFLET FOR LINE MANAGERS**INTRODUCTION**

1 A crucial element of embarking on a Wider Markets activity is to have considered and managed the risks involved with the undertaking. Risks are posed in a number of ways, and can have an impact on finance, operational effectiveness, property, equipment, health and safety of people, security or the environment. This leaflet builds on the advice supplied by leaflet 3 safety arrangements for organisations using mod premises

2 In MOD, where safety and environmental legal requirements exist, the duty to comply is cascaded down the chain of command to those in control at the local level. The duty, therefore, generally rests with the Commanding Officer or Head of Establishment (CO/HofE). It is therefore vital that those embarking on Wider Markets activities ensure that MOD as an employer has met all of its legal duties, be they those of an employer, occupier, person in control of premises or landlord. (E.g. In England and Wales The Health and Safety at Work Etc Act 1974, Occupiers Liability Acts 1957 and 64, Defective Premises Act 1972, Environmental Protection Act 1990. Scotland and N.I. have different statutes in some cases.)

3 This document will assist MOD in complying with the legal requirements, and will enable it to reduce the safety risks and the activity's impact on the environment. It will identify areas where consideration should be given to the particular circumstance of any interaction with a customer, and indicate where further information or assistance can be obtained.

AIM

4 The aim of this document is to provide CO/HofE, or their managers, who are considering income generation and Wider Markets schemes, with guidance on the health, safety and environmental aspects involved. The diverse nature of income generation makes it difficult to be specific about the actions necessary to carry out our legal duty of care to any third party. But if the areas indicated in this document were given consideration at the early stages of planning, MOD would be well placed to demonstrate that it recognised its legal responsibilities.

DEFINITIONS

5 In this document the following words mean.

Customer

These include other employers, self-employed persons, clubs, organisation or an individual.

NOTE

Although the issues covered in this guidance apply primarily to Wider Markets customers, they also affect any other third party – including a partner in income-generation who may have a working relationship with MOD.

Safety

An all-embracing expression that includes health, safety and welfare at work, equipment and material safety, environmental protection and fire safety.

Selling into Wider Markets

Where MOD seeks to generate income from customers by utilising spare capacity through the sale or hiring out of skills, services or property.

SAFETY

6 When considering the safety aspects of any activity it is important to break the thought process down into four areas. This approach should be applied whenever MOD has dealings with a customer. Consideration should be given to each of the following areas:

- The **Persons** involved in the undertaking, e.g. age, ability, gender, competence, etc.
- The **Equipment** to be used in the undertaking or to which the customer may have access, e.g. vehicles, compressors, lathes, boats, aircraft, protective equipment, ropes, etc.
- The **Materials** to be used in the undertaking or to which the customer may have access if the undertaking is on a MOD site, e.g. metals, chemicals, gases, etc.
- The **Location** where two aspects should be considered;
 - The environment in which the activity will take place, e.g. buildings, weather, atmosphere, ground condition, etc.
 - The environment that an activity will create, i.e. any by-product of a process, or machine operation (e.g. welding fume, carbon monoxide, noise).

7 In each of these areas there is a need to establish not only how the people, materials, equipment or location that we are providing for the activity will impact on our customer, but also how the activity may impact on our people, material, equipment and location. Some of the areas may appear not to apply, e.g. materials when renting a gym for physical training. They should, however, still be considered during the risk establishing process.

INITIAL ACTION

8 A suitably competent person should be identified and appointed, in good time, as the activity co-ordinator. They should be allocated suitable and sufficient supporting staff and resources required to address all the safety and other risks (e.g. financial, reputation) associated with the initiative.

9 A brainstorming session by those involved in the undertaking covering the four areas above should be carried out. This should identify concerns, hazards, controls and doubts. The prospective customer should be requested to supply any information they have concerning the same four subject areas. This should identify all the foreseeable risks and what, if any, control measures to reduce risk are in place. Where there are doubts, specialist advice in the area of concern should be sought, if not included in the team available to the appointed competent person. This may lead to, if necessary, the introduction of additional controls

PEOPLE

10 An activity will involve dealing with persons whose health and/or safety may be put at risk. The hazards faced by the persons need to be assessed to determine that the risks posed to the persons have been controlled to a tolerable level. It must also be recognised that the tolerable level will change with the type of customer involved. Thus the risks accepted as tolerable to serving personnel may be greater than those acceptable for children. If sports facilities are offered for use by local clubs and this includes physical training instruction by Service personnel, the training routines should be established for the type of person being instructed, and not as expected for servicemen.

11 Consideration will also need to be given to persons who are not directly involved with the activities, e.g. an audience. For example, a display team may need to establish safe boundaries for the audience and it could be that the environment being offered has insufficient space for the safety distance. When firing heavy weapons at displays, can we reduce the impulse noise on the audience to the legal level? JSP 375 Volume 2 Leaflet 4 has guidance on Noise at Work.

12 In the majority of cases, the control measures implemented by MOD to ensure the health and safety of our own employees should be sufficient to ensure the safety of others, but we must be able to show that we have actively considered their suitability.

13 This is achieved by carrying out an activity risk assessment, on which detailed guidance can be found in JSP 375 Volume 2, Leaflet 39. If the activity involves an aspect of military training where there may be higher risk elements that do not fit easily into the above assessment procedure, a more suitable guide is JSP 375 Volume 2 Leaflet 11.

14 The following additional restrictions may apply in certain cases. If young persons (under 18) or children (under 16) are likely to be involved, the guidance in JSP 375, Volume 2, Leaflet 35 must be followed. The same applies if the activity is known to involve new or expectant mothers; here JSP 375, Volume 2, Leaflet 36 can assist. This may also lead to the need for increased supervision of some people, compared with that normally required for Service personnel. If the activity involves large numbers of the public, having access to a MOD site, advice can be obtained from JSP 375 Volume 2 Leaflet 57. The Defence Lands Handbook JSP 362 Chapter 15 also offers guidance on public use of MOD property for social, recreational and commercial purposes.

EQUIPMENT

15 When MOD equipment is to be part of an activity undertaken by a customer, consideration must be given to its suitability, its condition and its compliance with any statutory requirement.

16 Where the MOD equipment involved has been purchased off the shelf it is likely to conform to the requirements of national standards and hence legislation. This is not always the case with military equipment. MOD has a number of exemptions from legislation in respect of vehicles and protective clothing. If as part of the activity our customer is to use our equipment, it must be established whether they can legally use it.

17 Equipment that conforms to EU requirements and is so marked will be suitable, but our customer may have to introduce additional control measures to ensure that military equipment can be legally used. Information on the requirements for equipment can be found in JSP 375, Volume 2, Leaflet 8. The requirements for Personnel Protective Equipment are detailed in JSP 375, Volume 2, Leaflet 13.

18 Where equipment is being provided for others to use, there is a requirement to ensure that the customer is provided with all the relevant information to allow them to operate the equipment safely, and informed of any control measures that MOD uses to reduce the risk of harm while operating it.

19 Special controls are necessary if supplying certain types of equipment. For instance, if radiation can be emitted from an item being supplied for use, the controls required by JSP 392 Radiation Protection need to be in place. Guidance on this subject can also be found in JSP 375, Volume 2, Leaflet 37. MOD has a number of items of equipment that contain asbestos. If these are to form part of an activity, and will be used by our customers, we need to ensure they are aware of the location of the asbestos. JSP 375, Volume 2, Leaflet 5 Annex A details the requirements for working with asbestos

20 Some equipment, e.g. lifts, cranes, etc, have safety certificates issued. Copies of these should be made available to the customer. JSP 375, Volume 2, Leaflet 9 provides guidance in this area.

MATERIALS

21 This area should consider the consumables that will be part of the undertaking, or hazardous items that the customer may come into contact with. There is also a need to establish what consumables the customer may be bringing onto the site, e.g. some clubs may use chemicals which MOD has stopped using. What would be the impact on MOD consents to discharge, obtained from the area water authority, if they are to enter the sewerage system? Units involved with public open days are well versed in ensuring that any hazardous chemicals are locked or moved to a safe location when members of the public visit a MOD site.

22 Safety data sheets should be provided to the customer if we are to allow them to use our chemicals/gases. These are either provided by the chemical/gas provider or through JSP 515 Hazardous Stores Information System. More information on controlling hazardous substances can be found in JSP 375, Volume 2, Leaflet 5.

23 An initiative may involve the supply of storage space. In this situation knowledge is required of the materials being stored and the quantities involved, and any segregation necessary for safety. If the materials are of a named substance or class, the quantity allowed on site may have to be limited to prevent the site becoming a "tiered site" and needing to apply for regulating under the Major Accident Control Regulations. The details of this requirement are contained in JSP 498 Major Accident Control Regulations.

24 MOD and third parties have a legal obligation to exchange information on risks with each other. This does not require MOD to dictate how the other party uses the information that we provide. It is up to the other party to make its own management decisions on how it is to be used. But where we have provided hazardous materials and supplied information on the risks, monitoring that this has been taken into account should be carried out when the work is being performed on MOD property.

LOCATION

Where the undertaking is to take place

25 The customer may have legal obligations that do not apply to MOD, e.g. fire certificates for the buildings they occupy. This may also be part of their employer's liability insurance. Many MOD buildings, however, do not have a fire certificate as legislation exempts MOD provided the building is "used solely for the purposes of the Armed Forces". (It does not therefore exempt MOD when the building is being used for a commercial purpose.) If the activity is to be located in a MOD building, advice and guidance should be obtained from the MOD Fire Prevention Officer, who can assist in obtaining a fire certificate if it is needed. The MOD FPO may also need to establish if the activity will impact on the Fire Risk Assessment and or Fire Safety Management Plan for the building or Establishment.

26 The use of a building also involves the building's condition and continued upkeep. The agreement must identify who will ensure the safe state of the property with regard to the Defective Premises Act 1972. Advice on this should be obtained from the local property manager or Defence Estates where Regional Prime Contracting has been introduced for property maintenance.

27 Where we provide a service outside our normal operating areas (e.g. display teams) an assessment of the terrain, weather and other activities being carried out adjacent to our activity, needs to be considered to ensure their compatibility.

28 The need to obtain an operating licence may also become a legal requirement. If a MOD adventure training facility is to be utilised for income generation, especially if young persons are involved in the activity, then The Adventure Activities Licensing Regulations 1996 SI 1996/772 should be considered.

Created environment

29 The activities being performed on a MOD site need to be compatible with the activity that the customer is bringing on site. Any output from their activity should be checked to ensure that it would not react with any MOD activity or output. If their activity has a by-product going to the foul sewer, will it need a trade effluent consent or, if we have one in place, will their addition push MOD above its permitted levels?

30 The noise produced by activities needs special consideration. MOD has exemption from the Environmental Protection Act 1990 for noise and black smoke pollution emanating from our activities on MOD premises. This exemption does not apply to our activities on non-MOD sites (nor to commercial activities). If a customer uses our sites we must ensure that they are not creating a noise and/or smoke-emitted nuisance for which they could face prosecution. The same considerations apply when the premises are not owned by MOD.

ENVIRONMENTAL PROTECTION CONSIDERATIONS

31 In all initiatives the activities carried out on MOD property must be done without harm to the local environment, flora, and fauna. Where practicable the activity should be assessed in accordance with the procedures outlined in JSP 418 - The Environmental Manual. The Environmental Impact Assessment for the site should also be reviewed

32 The Government Sustainable Development Strategy requires that as well as considering the environmental impacts of MOD activities the social and economic impacts of the activity should also be considered at the brainstorming phase. This should encompass the whole-life of the activity, positive and negative and social impacts. In particular

- a **Air Quality** - The customer must ensure that activities under their control do not cause smoke, odour or other nuisances or violations of the Clean Air Act 1993 as amended. The customer must ensure that any piece of machinery that they bring onto MOD property is properly serviced and maintained and falls within the correct emission limits.

b **Energy Use** - MOD should discuss with the customer what the type and approximate demand of energy resources for the activities would be. Where possible more environmentally sustainable energy sources should be used and energy consumption should be minimised.

c **Pollution Prevention** - If the activity requires the use of chemicals, fuels and/or lubricants the customer must be made aware of the Unit Spillage Response Plan (USRP) and the site drainage plan. The customer should ensure that the appropriate Pollution Control Absorbents (PCAs) have been purchased and are available to be deployed before any hazardous chemicals or fuels are used. All surface water drains are to be covered by 'drain blockers' or an equivalent product. Further information on Pollution Prevention can be obtained from the Unit Pollution Control Officer or JSP 317, Part 5. Under no circumstances should a hazardous substance be allowed to enter a surface water drain.

d **Waste Management** - MOD should discuss with the customer the types and quantities of waste, if any, that will be produced. Receptacles for each type of waste stream must be provided, including facilities for recycling and provision for the disposal of special waste (if hazardous materials are used). All litter must be collected and deposited in the correct receptacle once the activity has ended.

33 Once the customer has ceased the activity, the land or property should be in the same or better condition than it was before the activity commenced, with minimal damage to property, living ecosystems and natural habitats. Further information can be obtained in JSP 418 - The Environmental Manual, and for the MOD estate the Sustainability Appraisal Handbook for the MOD Estate issued by the Defence Estate Organisation.

CO-ORDINATION

34 The safety aspects of Selling into Wider Markets require dialogue between MOD and its customer. Where MOD undertakes an activity with a private-sector customer, it must establish that it is complying with any specific legislation. Our customer has a legal duty to provide MOD with information on the hazards they create and how the risks are controlled. An indication of the safety performance of a customer can be obtained by applying the guidance on contractor selection in JSP 375, Volume 2, Leaflet 45.

35 Where the customer is to operate on MOD premises, MOD must ensure the customer is aware of the risks faced and that their activities are co-ordinated with ours. JSP 375, Volume 2, Leaflet 34 has guidance on controlling contractors which can be used as the basis for the co-ordination between MOD and our customers.

MULTI-SITE INITIATIVES

36 The implications and outcome of the above considerations will vary from one site to another. It is therefore essential that those managers considering an activity involving a number of sites ensure that each has been given the opportunity to assess the impact of the customer's activity on their domain. The risks for one site might simply be too great for it to be included.

RISK MITIGATION

37 Even after all the required control measures possible have been implemented there will remain an element of risk in any activity. In some circumstances the financial cost of the risk realisation can be reduced.

38 Liability insurance is to be obtained for activities for which charges are raised, in order to protect the Department against claims for compensation for negligence from third parties. The cost of the premium should be met by the charges raised. The level of insurance cover should be decided, in consultation with the insurance broker, as appropriate to the degree of risk posed by the activity but should not be less than £2M per incident. More information on claims and liability for various activities can be found in JSP 375 Volume 2 Leaflet 47 Annex C. Guidance on this aspect can be obtained from MOD Claims.

WORKING ALONGSIDE CUSTOMERS AND PARTNERS

39 When an activity is undertaken which involves a third party being resident on a MOD site, the MOD CO/HofE will need to ensure that the third party is integrated into the site emergency procedures. This will include agreement on how information on incidents is to be exchanged, identification of key personnel, and attendance by the other party's representative at any site safety committees. These will complement any monitoring arrangements that need to be undertaken to check on the other party's health and safety performance.

PROCESS

40 MOD managers will be assisted in making decisions on income generation and other Wider Markets activities by the mutual exchange with the customer of the following information:

- The People involved
- The Equipment involved
- The Materials involved
- The Location where the activity will take place
- The Environmental impact of the activity.

41 This will enable risk assessments to be produced which will allow both parties to decide if there is a need for additional controls, formal agreements or contractual clauses to be put in place before such an activity can commence. A guide to the elements that need to be considered in formal agreements are listed below.

42 When considering working with a customer the early involvement of the specialist advisers on property, safety, fire and environmental matters can assist with the understanding of the specific issues that will impact on the activity.

APPROVAL FROM THE CHAIN OF COMMAND

43 Depending of the implementation guidelines of Selling into Wider Markets issued in each Top Level Budget area, the safety arrangements for all activities may require prior approval by the unit's headquarters or chain of command. The draft contract, and risk assessment as necessary, will form an important role in gaining approval for an activity to be undertaken.

PROCESS MILESTONES

44 The areas to be considered are covered in existing MOD guidance, but each Wider Markets activity will be unique and may not need to include all aspects. A reference list of useful documents is supplied below.

45 The following process indicates the steps involved to ensure a safe partnership.

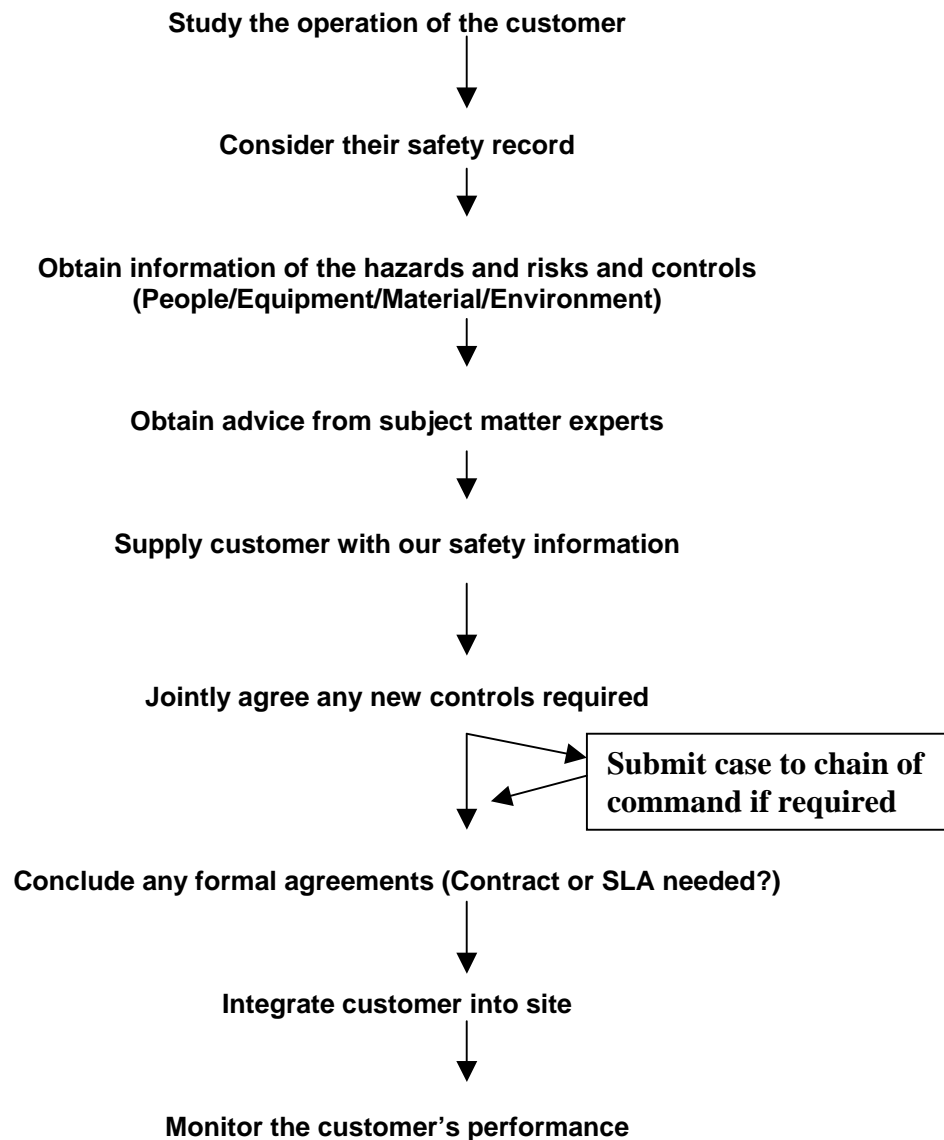


Figure 1 Steps involved to ensure a safe partnership

CONTRACT CONSIDERATIONS

46 The contract should set out the safety responsibilities and arrangements of the MOD vis-à-vis the customer. The contract should also set out the responsibilities and arrangements for insurance and security, and include the relevant details from the list below.

- a) The parties to the contract.
- b) The areas of responsibility for each aspect of the activity.
- c) Control, co-operation, co-ordination and communication of the activity.
- d) The identity of key personnel and their individual responsibilities.
- e) The status of military personnel (on duty or as volunteers).

Please note that this matter is under consideration by MOD Legal in respect to the authority of a military order in relation to a Serviceman on SWM initiatives.

- f) The liability of personnel.
- g) The need, if appropriate, for business, including indemnity, insurance.
- h) The charge to the customer of the activity.

REFERENCE DOCUMENTS

47 The following documents are referenced in this guidance.

- JSP 317 Safety Regulations for the Storage and Handling of Fuels and Lubricants.
- JSP 375 MOD Health and Safety Handbook
 - Especially:
 - JSP 375, Volume 2, Leaflet 3 Safety Arrangements for Organisations Using MOD Premises
 - JSP 375, Volume 2, Leaflet 4 Noise At Work
 - JSP 375, Volume 2, Leaflet 5 Annex A Control Of Asbestos At Work
 - JSP 375, Volume 2, Leaflet 8 The Purchase and Safe Use of Work Equipment
 - JSP 375, Volume 2, Leaflet 9 Lifting Operations and Lifting Equipment
 - JSP 375, Volume 2, Leaflet 11 Safety In Military Training And Exercises
 - JSP 375, Volume 2, Leaflet 13 Management of Personal Protective Equipment
 - JSP 375, Volume 2, Leaflet 34 The Management of Contractors and Other Visiting Workers (including MOD Agencies) Within the MOD
 - JSP 375, Volume 2, Leaflet 35 The Health and Safety of Young Persons
 - JSP 375, Volume 2, Leaflet 36 New and Expectant Mothers at Work
 - JSP 375, Volume 2, Leaflet 37 Radiation Protection for Ionising Radiations and Radioactive Waste Disposal
 - JSP 375, Volume 2, Leaflet 39 Risk Assessment
 - JSP 375, Volume 2, Leaflet 45 Contractor Selection
 - JSP 375, Volume 2, Leaflet 47 Health and Safety Responsibilities and Duties of MOD employees
 - JSP 375, Volume 2, Leaflet 57 Safety at Public Events
 - JSP 362, The Defence Lands Handbook
 - Especially:
 - Chapter 15 public use of MOD property for social, recreational and commercial purposes
 - JSP 392, Radiation Protection
 - JSP 418, Environmental Manual
 - JSP 498, Major Accident Control Regulations
 - JSP 515, Hazardous Stores Information System

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