

# AGAls Vol 3 CHAPTER 108 - CARE OF SERVICE PERSONNEL WITH DISABLED AND SPECIAL NEEDS (SN) DEPENDANTS Issue No. 141

## Introduction

108.001. It is tri-Service practice to adopt and reflect UK National Legislation within individual Service policies, where it is applicable, and it is practicable to do so.

108.002. Within the generic area of SN, which applies equally to adults and children, there are obligations placed upon the Army by relevant National Legislation to ensure that Service practices minimise the disadvantages to personnel with disabled and SN dependants. This instruction states Army policy and clarifies the obligations.

108.003. For the purpose of this instruction a dependant is defined as a Service person's spouse, son or daughter under 18 (up to 25 if unmarried and still in full time education for up to one year between secondary and further education) or of any age if assessed by a medical authority as suffering from a physical or mental infirmity. Additionally, other individuals may be granted dependant status on a case by case basis on application to DPS(A) (PS4(A)).

## National Legislation

108.004. The five principal National Legislation Acts which govern practice within the area of SN, and will therefore affect Service practice are:

- a. The Children Act 1989.
- b. The Education Act 1996.
- c. The Chronically Sick and Disabled Persons Act 1970.
- d. The National Assistance Act 1948, and the
- e. Special Needs and Disability Act 2001.

A resume of the key elements of the relevant Acts is attached at Annex A to this Chapter.

## Policy

108.005. It is Army policy to apply the provision of these five Acts within its procedures wherever it is practicable to do so. They, together with the Army's 'duty of care' as an employer, constitute the Army's SN policy.

## Responsibilities

108.006. Commanders are to ensure that mechanisms and practices are implemented within their areas of responsibility to reflect Army policy. Such practices are to set in place instructions that:

- a. Require a serviceperson, who has a dependant with professionally diagnosed SN or disabilities or Statement of Special Needs (SSN), to notify the chain of command through unit administrative procedures in order that outline details may be included within the Service person's Record of Service (ROS).
- b. Encourage Service personnel to voluntarily notify the chain of command of any dependants, who are either awaiting professional diagnosis or clarification of a disability or SN, as this is in both their and their dependant's interests to do so.

108.007. All management mechanisms and practices are to ensure that the Service person's career, wherever possible, is not adversely affected by having a dependant with SN. The instructions to be followed in this respect are outlined in Annex B to this Chapter. At the same time the needs of the Service, as reflected in Queen's Regulations for the Army, Chapter 9, Para 9.260 (QR(Army), Para 9.260), are to be preserved.

108.008. Service personnel, whilst entitled to the same support for their SN dependants as their civilian counterparts, also benefit from additional Service support. At Annex C to this Chapter is a list of the additional support provided.

108.009. – 108.020. Reserved.

## Annexes (MOD Sponsor)

Annex A (PS4(A)); Principle Elements of relevant Special Needs Legislation.

Annex B (DM(A)); Manning Procedures.

Annex C (PS4(A)); Additional Benefits provided for Service persons with Special Needs (SN) dependants.

## **Annex A to chapter 108 Principle Elements of Relevant Special Needs (SN) Legislation**

### **(Para 108.004 refers)**

1. The five principle Acts which cover the responsibilities of appropriate authorities with regard to Special Needs are outlined below. The Services overseas, and in some circumstances in the United Kingdom, are such an authority.
2. Each Act places various obligations upon the Services. The principal elements of each are:
  - a. The Children Act 1989 reflects the paramount responsibility for the Services to safeguard the child's welfare and to provide appropriate support services.
  - b. The Education Act 1996 refers to children with 'learning difficulties which call for special educational provision' and requires Local Education Authorities (and thus the Services overseas) to be able to identify and assess the SN requirement and make educational provision for those children.
  - c. The Chronically Sick and Disabled Person Act 1970 and The National Assistance Act 1948 require the Services to be aware of all affected persons in their community, to provide practical assistance in the form of welfare services and suitable housing, and to ensure that such persons are given access to schools to take advantage of educational facilities.
  - d. The Special Educational Needs and Disability Act 2001 amends elements of the Education Act 1996 by introducing additional measures to increase access to mainstream schools for children with SEN, the provision of information and support to parents and a range of other measures that include increased parental rights of appeal, and it extends disability discrimination duties covered by the Disability Discrimination Act 1995 to cover every aspect of education.
3. Further advice on Special Educational Needs – Code of Practice (DfES/581/2001 dated Nov 01) has been issued by the Department for Education and Skills (DfES).

## Annex B to chapter 108 Manning Procedures

(Para 108.007 refers)

### Policy

1. In managing the careers of Service personnel with family members who have Special Needs (SN) or disabilities, the APC is to apply the following principles:

- a. All cases will be managed with care and compassion and every practicable assistance is to be given to the Service person.
- b. When considering overseas postings (including NI) G1 Branches in the overseas command are to be consulted before a posting is confirmed. G1 Branches will make an assessment based on information received from agencies such as Education, Medical, Social Services, the Army Welfare Service (AWS) and other relevant agencies. A recommendation will then be forwarded to the appropriate MCM Division. SCE(UK)1 is to be consulted in cases involving dependant children with special educational needs.
- c. Where practicable, consideration will be given to the view or wishes of the Service person.
- d. Wherever possible the posting process should give as much advance notification as possible in order to allow individuals to enrol SN dependants into specific facilities and to give notice to alterations to SFA.

### Career Management

2. Service personnel who have family members with SN or disabilities are to be considered for promotion, career courses and advancement in competition with their peers in the normal manner. They should not be disadvantaged by their family circumstances and, wherever possible, employment is to be found to suit their family circumstance which will also favour their career progression. It must, however, be recognised that however sympathetic their management, any restriction on a soldier attending appropriate career courses at the correct time and/or gaining the required breadth of relevant experience for his employment may adversely affect his future employability and hence career prospects.

3. Service personnel with SN dependants are to be counselled by their CO annually, at the time of their annual CR/AR. The CO is first to seek advice on options for employment and training from the parent APC MCM Div. Wherever possible careers are to be progressed normally, if difficulties do arise it is vital that these are explained to the soldier, the options discussed and an informed decision taken. In some cases restrictions on serving in some locations may make necessary a change of cap badge and this should be considered at the earliest opportunity, not as a last resort. Attached at Appendix 1 to this Annex is a diagram showing the sequence of events for notification and posting procedures.

### **Confidential Reports**

4. The fact that a Service person has a dependant with SN should not be reflected in the assessment of that individual's performance and professional ability to carry out their duties. In situations where it is relevant and justifiable reporting officers may take into account any restrictions that could impact on future postings.

### **Interests of the Service**

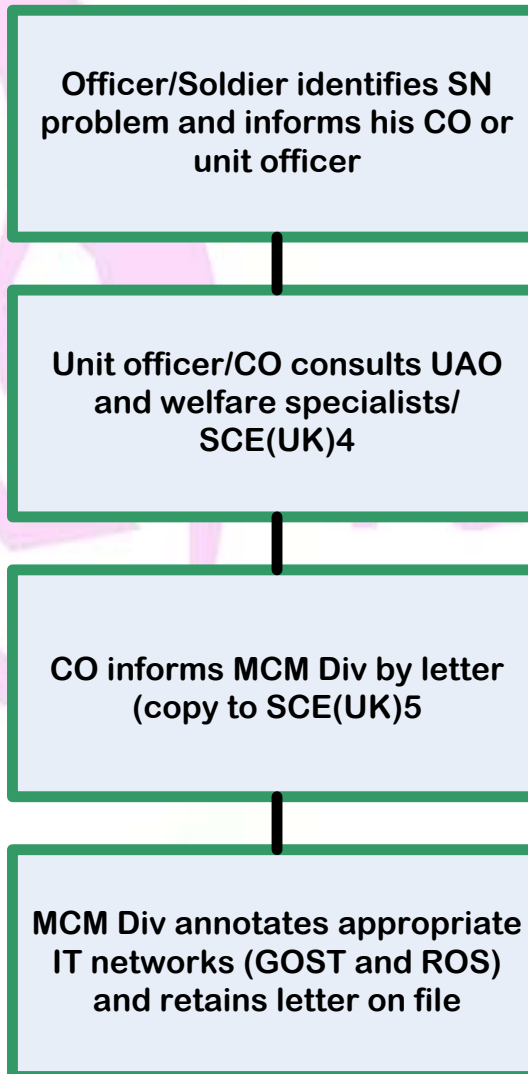
5. The underlying principle for employment in the Army is the ability for a Service person to be available for worldwide deployment or posting at any time. This policy is set out in QR(Army), Para 9.260 and is a condition of being accepted into the Service on enlistment. If circumstances are such that a Service person cannot deploy, be posted or carry out their duties, an application may be made for discharge or transfer to the Reserve.

### **Summary**

6. The requirement for Service personnel to notify that they have a SN dependant is to ensure that career management and appropriate postings can be effected with full knowledge of the relevant factors of family circumstances. To this end Para 108.006 of this AGAI also encourages the active and voluntary participation of Service persons who have dependants who await full diagnosis as well as those who are already assessed.

**Appendix 1 to Annex B to Chapter 108 - Officers and Soldiers with Special Needs Dependants Notification and Posting Procedures<sup>23</sup>**

**Notification**



Parent  
Partnership  
Service