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HEALTH AND SAFETY COMMISSION

Update on development of Sound advice guidance for the music and entertainment sectors on the Control of Noise at Work Regulations 2005

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Issue

1. Update on development of practical guidelines to help workers and employers in the music and entertainment sectors comply with the Control of Noise at Work Regulations 2005. This guide is specifically required under the European Physical Agents (Noise) Directive.

Timing

2. A draft web guide is being put out to industry stakeholders for comment at the end of July.

Recommendation

3. That the Commission:

- note that the Sound Advice guide discussed at the 9 January HSC meeting has been repackaged as a web-based guide and other improvements have been made to presentation following their advice;
- note that a test site of the web-guide will be put to industry stakeholders for comment/endorsement from the end of July until early October;
- note that a media handling strategy has been prepared to support awareness raising and media interest.

Background

4. The Control of Noise at Work Regulations 2005 came into force on 6 April 2006 and implements the Physical Agents (Noise) Directive. The regulations and Directive allow for a two-year transitional period before they must apply to the music and entertainment sector (defined as 'all workplaces where live

music is played or recorded music is played in a restaurant, bar, public house, discotheque, or nightclub, or alongside live music or a live dramatic or dance performance). During this time the Directive tasks Member States to prepare, with social partners, a code of conduct providing practical advice to assist this sector to comply with legal obligations. In the interim the music and entertainment sector is still subject to the Noise at Work Regulations 1989.

5. Paper HSC/07/08 presented to the HSC on 9 January 2007 set out proposals for consultation on an industry specific draft guide for noise control in the music and entertainment sector. At that meeting the HSC commented that the draft guide contained much valuable practical advice but it was essential that this was not let down by its presentation as a large heavy document, which made it appear impenetrable and off-putting for those that needed to use of it. It was recommended that the guide be broken down into shorter sector-specific parts and that industry support be ensured. The Commission also recommended that it was important to raise awareness on the risks of noise exposure in this sector through real life case studies.

Argument

6. Since that meeting HSE has worked with the working group of industry stakeholders responsible for the development of the draft guide to improve its presentation and reflect the views of the HSC. Following the advice of HSE's Communications Directorate, the guide has been repackaged into a web based format providing targeted practical advice for key sectors (orchestra and theatres, amplified live music, studios, schools and colleges, pubs and clubs marching bands and freelancers). The website has simple key messages and other information on what dutyholders need to know and do to manage noise risks in their sector and what they can do to monitor controls introduced. More detailed advice is provided in the form of pdf information sheets (Sound Advice Notes) for those that wish to read more about available controls or about risk assessment, hearing protection, health surveillance etc. This approach helps to distinguish what is required by law from what is considered industry good practice, this distinction has been carried through into the Sound Advice Notes.

7. Considerable efforts have been made to ensure that the guide is supported by industry stakeholders including the Association of British Orchestras (ABO), The Musicians Union, Theatre and Production agencies, pubs and clubs and others and a full list of stakeholders involved in the preparation of the web-guide is provided in Annex A. The stakeholders involved are listed on the web-guide, and a foreword inviting feedback is provided by the Chair of the Working Group (David Adams, Association of British Theatre Technicians).

8. The web guide is now ready to be shared more widely. This is to ensure there is wide industry support for it and to provide the opportunity for those outside the industry working-group to comment and to contribute examples of good practice. A link to the web-guide will be circulated at the end of July to 300 organisations and individuals that have expressed an interest in seeing the guide and these will be invited to provide feedback by early October. This is not a public consultation as this is not required for guidance but it will allow the

stakeholders in the sectors concerned to contribute to the development of the guide and to endorse its content. The guide will then be reviewed in light of comments and suggestions made. Comments are also invited on whether users would want a printed version of the guide, given that the industry working group feel very strongly that a printed version should be available.

9. The final version of the web-guide should be launched in February 2008 (approximately 8 weeks before the Regulations come into force for this sector). The launch will be supported by a short promotional flyer to raise awareness on the application of the regulations and the availability of the industry led guide.

Presentation

10. There has been increasing media and industry interest in the coming into force of these regulations for this sector and the proposed guidance. In May a front page article in *The Stage* highlighted the draft guidelines which had been discussed at an industry health and safety seminar. This was picked up by some of the national papers. Nearly all the industry spokespersons invited to comment were pragmatic and recognised the need for action to control risks. Most also demonstrated that they already follow much of the good practice suggested in the guide. There was however some negative coverage for HSE suggesting we were asking musicians to play quietly.

11. There is also pressure from other organisations such as the RNID that are pressing for more enforcement in this sector. The RNID recently encouraged an MP to table 12 parliamentary questions on levels of enforcement in premises licensed for entertainment; numbers of prosecutions taken; and levels of exposure to noise for both workers and the public. RNID are also promoting greater public awareness about the need to manage noise both at work and more generally through their own website and through www.dontlosethemusic.com which is a campaign to raise awareness of hearing loss with many high profile celebrity musician endorsements. HSE has met with RNID once to discuss awareness raising on noise in music and entertainment and a further meeting is planned to explore how we can work together on this issue.

12. Other groups on the other hand have sought to reopen the debate of the application of these regulations to the sector through a petition on the No10 website asking for the sector to be exempted from the Control of Noise at Work Regulations 2005.

13. Music and entertainment is one of the most important and high profile parts of the UK economy. As April 2008 comes closer the likelihood of further media coverage is high with the risk of negative comments on HSE's role. We believe this is best met by a strong media strategy which offers balanced risk arguments that sensible precautions can be taken to protect the hearing of performers and workers and that these will not be at the cost of continued enjoyment of music or its contribution to the UK economy.

14. The HSE has developed a briefing pack with case studies of persons in the industry that have suffered hearing loss or impairment as a result of exposure to

loud music through work. A media handling strategy which, with the support of a number of prominent industry stakeholders who are able to endorse the need for guidance and for sensible practical controls, aims to raise awareness of the risks of hearing impairment from exposure to loud noise or music with the trade press and to respond robustly to critical national media coverage as necessary [The media handling strategy is attached at Annex 2].

Costs and Benefits

15. The post-consultation Regulatory Impact Assessment considered the costs and benefits of these regulations to the whole economy including the music and entertainment sector. It was discussed in Paper HSC/05/01 and is on HSE's Noise web pages at <http://www.hse.gov.uk/noise/noise.pdf>. This guide should not add to those costs but is rather intended to help dutyholders comply with the Regulations through providing practical guidance and advice. The RIA will however be reviewed in light of comments to ensure this remains the case.

Financial/Resource Implications for HSE

16. The estimated costs to HSE of producing this sector-specific guidance are £67,000 in staff resources (full economic cost) over the life of the project until completion; £15,000 direct costs for development of the web-guide; and £25,000 for media handling, awareness raising and promotion of the final guide in 2008. There has also been significant investment in terms of time, effort and money from sector representatives on the working group and the chair of the working group who have worked on this issue since the adoption of the Directive in 2003.

Other Implications

17. Enforcement is an important consideration and it is essential that a measured and proportionate approach be taken. Local authorities enforce noise at work legislation at most music and entertainment venues and the Chartered Institute of Environmental Health has a representative from the London Borough of Westminster on the working group. HSE and LACORS are in regular dialogue on handling of this issue particularly with respect to enforcement, media interest and awareness raising. LACORS and HSE are agreed that the priority should be to raise awareness with dutyholders about the 2005 Regulations and to take account of industry guidance.

18. The draft web-guide has been shared with LACORS and will be circulated to local authorities for comment. From January 2008 LA EHOs have been asked to raise the Regulations during routine visits and to direct dutyholders to the industry led web-guide when this becomes available. Local authorities are already taking local initiatives to prepare for the web-guide and some have used the HSE/LACORS Science and Technology Fund to support research on compliance with the 1989 regulations or on the development of advice to EHOs. HSE will continue to work with LACORS and LAs to ensure enforcement is proportionate and targeted in line with the Enforcement Management Model.

Next steps

19. The webguide is now ready for wider circulation within the music and entertainment sector. During the week commencing 23 July a link to the guide will be sent to those stakeholders that have expressed an interest in seeing it and these will be asked to provide feedback on the guide by 12 October. For those Commissioners that wish to see the guide a demonstration can be provided before it goes live and the link will be forwarded to them for information.

Members of the HSE Industry Working Group on Music and Entertainment

Arup Acoustics,
Association of British Orchestras,
Association of British Theatre Technicians,
Bar Entertainment and Dance Association,
BBC,
BECTU,
British Beer and Pub Association,
Cameron Mackintosh Consultants,
Chartered Institute of Environmental Health,
Concerts Promoters Association,
Design Interventions Ltd,
English National Opera,
Equity,
Luminar Leisure,
Ministry of Defence,
Musicians Union,
National Entertainment Safety Association,
Production Services Association,
Royal Opera House,
Society of London Theatre/Theatrical Management Association
Two independents
HSE Noise and Vibration Programme
HSE Noise and Vibration Specialist Inspectors
Broadcasting, Entertainment, Cinematography and Theatre Union