

Sound Advice Note 2

Responsibilities

This is the full text of the **Sound Advice** Working Group recommendations on responsibilities. It may help you understand your responsibilities under the Control of Noise at Work Regulations.

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General responsibilities

2.1 Everyone involved in an event has a responsibility to assist with noise management: from the promoter or venue operator through to performers and technicians. The normal arrangements of employer/employee are sometimes difficult to determine and often vary with each engagement or show. Add to this the large number of self-employed people working as performers, sound engineers or technical crew and the picture can become very confused.

2.2 Because of these complexities people working at live music events need to take a degree of personal responsibility to think about their own noise exposure and ensure reasonable steps are taken to achieve compliance with the Noise Regulations. Simply relying on an overall 'employer' may not always be the most effective approach. It is important that the people who can most readily control noise levels, such as conductors, musical directors and sound engineers, recognise their responsibility for providing a safe workplace.

2.3 Excitement in musical performance is not achieved by volume alone. Constant loud volume soon becomes monotonous and is potentially damaging to both performer and listener. Drama is created by dynamic contrast, which can be achieved with a reduction in general volume levels that would not be noticed by the audience. This represents a culture change and may require greater effort to achieve the softer levels needed to maintain the range of dynamic contrast.

Employers' responsibility

2.4 The primary responsibility for complying with the Noise Regulations rests with the employer. Employers in the music and entertainment sectors may include, for example, concert promoters, event organisers, theatrical producers, contractors and publicans. Employers must:

- Assess the risks to employees from noise at work
- Take action to reduce the noise exposure that produces those risks
- Provide employees with hearing protection if the noise exposure cannot be reduced enough by using other methods
- Make sure the legal limits on noise exposure are not exceeded

- Provide employees with information, instruction and training. It is important that employees understand that the Noise Regulations apply to them
- Carry out health surveillance where there is a risk to health
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2.5 To assist in meeting the requirements of the Noise Regulations employers should:

- Consult with their staff and with Safety Representatives where they exist
- Ensure their documented health and safety policy makes clear the specific noise responsibilities of staff from senior management downwards
- Ensure their health and safety policy specifies the arrangements for managing noise risk assessments and controlling the risk
- Communicate this policy to their staff, management colleagues and boards and trustees
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2.6 The Noise Regulations¹ place duties on all the employers involved in work at the same workplace. Employers have responsibility for their own employees and, so far as is reasonably practicable, to any other person at work who is affected by the work they do. Employers should exchange information and collaborate to ensure that they fulfil their duties without unnecessary duplication.

2.7 Engager/contractors, fixers and freelancers engaging 'deps' (substitutes) or extras should ensure that the risks and control measures in place are communicated to replacement and temporary workers.

People at particular risk

2.8 Some workers should be given particular consideration when making a noise risk assessment, for example people with a pre-existing hearing condition, those with a family history of deafness (if known), pregnant women, children and young people.

- New and expectant mothers
- Employers have duties under the Management of Health and Safety at Work Regulations 1999 towards new and expectant mothers in their workforce. Employers must assess the nature, degree and duration of exposure of pregnant workers to noise and ensure any risk is controlled.
- Young persons and children
- The Management of Health and Safety at Work Regulations 1999 restrict the employment of young people (that is those under 18) where there is a risk to health from noise. Employers must also ensure that young people employed by them are protected against any risks to their health and safety at work that are due to their inexperience, immaturity and lack of awareness of risk. Particular care should be taken with risks to the hearing of children (that is young workers under the compulsory school age.)
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There are also obligations on employers under the Management of Health and Safety at Work Regulations 1999 to co-operate and co-ordinate where two or more employers share a workplace (whether on a temporary or permanent basis). These obligations also apply to employers sharing a workplace with self-employed people and to self-employed people sharing a workplace with other self-employed people. See also Sound Advice Note 4 *Freelancers*.

EXAMPLE

A TV company decided that it is good practice to limit the noise exposure of children to less than half that of adults, for example where adults may be exposed to an average of 80 dB over 8 hours, a child should only be exposed to an average of 77 dB over a maximum of 4 hours.

Part-time workers

2.9 Employers who engage workers on a part-time basis must work with them to ensure the risks from noise are managed. Exposure for part-time workers should be based on the period of the engagement (that is not averaged over a longer period) unless the employer is assured that the worker will have no significant exposure during the rest of the day or the employer provides the worker with hearing protection and promotes its use.²

Employees' responsibility

2.10 Under the Health and Safety at Work Etc. Act 1974 employees must take reasonable care for their health and safety and that of others while at work and to co-operate with their employer to enable the employer to carry out legal duties. Employees should take care to avoid actions that might damage their hearing or the hearing of others.

2.11 Under the Noise Regulations employees must:

- Use control measures in accordance with their employers' reasonable instructions;
- Wear hearing protection according to their employers' reasonable instructions;
- Take care of hearing protectors and noise control equipment;
- Report faults and difficulties in using noise control equipment;
- Make themselves available for health surveillance.

2.12 However, where employee(s) reasonably believe(s) they are being placed in a situation of serious and imminent danger they can stop work and remove themselves from that situation.³

² The daily personal noise exposure level ($L_{EP,d}$) is averaged over an 8-hour period rather than the actual time in the work environment. This is to allow for quiet periods as well as noisy ones. However, where work is undertaken for more than one employer in an 8-hour period, it is reasonable to assess exposure across each period of employment unless the worker has no significant exposure during the rest of the day.

³ See The Management of Health & Safety at Work Regulations 1999.

Self-employed persons' responsibility

2.13 The Health and Safety at Work Etc. Act 1974 defines a self-employed person as an individual who works for gain or reward but is not under a contract of employment. Under the 1974 Act self-employed persons must conduct their work in such a way to ensure their own health and safety and that of others. Under the Noise Regulations they have the same responsibilities as employers and employees for their health and safety arising from the exposure to noise and for other people whose hearing might be damaged by their acts or omissions. Many performers and sound operators are self-employed. Note, however, that the members of the self-governing orchestras are regarded as employees for health and safety. See also Sound Advice Note 4 *Freelancers* for more practical advice.

Glossary

For a more detailed explanation of terms see Useful terms.

Engager/Contractor: in the music industry employers are often known as engagers or contractors; other terms used, which may or may not imply employment, include producers, promoters, managers and fixers.

Freelancer: in the music industry a freelancer is someone who is not permanently employed fulltime by one employer. A freelancer may go through periods of self-employment or be employed by more than one employer. Typically, a freelance musician may well be involved in any of the following activities in any one day – rehearsing, performing, teaching, practising or recording.

Health surveillance: assessment of the state of health of an employee as related to exposure to noise.

Noise exposure: ('the noise dose') takes account of both the actual volume of sound and the duration for which it continues. Noise exposure is not the same as sound level, which is the level of noise measured at a particular moment.

Bibliography

The Control of Noise at Work Regulations 2005. SI HMSO

Controlling noise at work – The Control of Noise at Work Regulations 2005. L108. HSE Books ISBN 0-7176-6164-4

Management of Health and Safety at Work Regulations 1999 L21. HSE Books ISBN 0 7176 24889

Noise at work: Guidance for employers on the Control of Noise at Work Regulations 2005. INDG362(rev1) HSE Books

Protect your hearing or lose it! INDG363(rev1) HSE Books

Surveillance of people exposed to health risks at work. HSG61 ISBN 07176 05256

Use of contractors: a joint responsibility. IND(G)368 HSE Books

Other **Sound Advice** Working Group recommendations

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