

Proceedings of the Institute of Acoustics

ASSESSMENTS, COMPETENT LEGAL MINIMUM AND USER FRIENDLY REPORTS

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The views expressed in this paper are those of the author and not necessarily the views⁽¹⁾ of the Health and Safety Executive or other inspectors.

1 The Noise at Work Regulations⁽²⁾ (NAW Regs) which become law in January 1990 seem to be arranged as a guide to the implementation of the required work programme itself.

2 A lot of similar legislation is, probably through necessity, sets of seemingly unrelated "shall not exceed" rules. Certainly these are quite specific mandatory requirements under the NAW Regs but there is a logical sequence of events which can be followed like a flow chart to comply with the duties imposed.

3 As with any workplace situation it is necessary to determine if there is a possibility of hazard if so it should be investigated properly to see if the possibility is confirmed.

Reg 4(1): Every employer shall, when any of his employees is likely to be exposed to the first action level or above or to the peak action level or above, ensure that a competent person makes a noise assessment ...

[continues]

4 If a hazard exists then we surely have a moral and now a legal duty to tell the people exposed to what degree they are at risk.

[Continuing Reg 4(1)]:

... noise assessment which is adequate for the purpose - (a) of identifying which of his employees are so exposed ...

[continues]

5 So, when a hazard has been found it seems sensible to find out in the first place exactly the sort of legal duties the NAW Regs impose.

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6 Duties will vary depending upon the degree (the action levels). So you are pointed towards the next stage, what you should do.

[Continuing Reg 4(1)]:

... noise assessment which is adequate for the purpose - (b) of providing him with such information with regard to the noise to which those employees may be exposed as will facilitate compliance with his duties under Regulation 7, 8, 9 and 11.

N.B. Regs 7, 8, 9 and 11 cover Reduction of Noise Exposure, Ear Protection, Hazard Zones and Employee Training respectively.

7 In "facilitating" Regs 7, 8, 9 and 11 the Assessment under Reg 4 has told you with which other Regulations you have to comply, but not necessarily told you how.

Facilitate:

... to make easier; assist in the progress of⁽³⁾;

... to make easy or easier⁽⁴⁾;

... to free from difficulty or impedance⁽⁵⁾;

... to render easier the performance of; to promote; to help forward⁽⁶⁾;

... to make easy; promote; help forward; hence⁽⁷⁾;

... to signpost as a guide to the next step (my personal and favourite definition).

8 The sequence so far has been all stages of the initial investigation, measurement and policy plans have done nothing towards actually reducing the noise.

9 The setting out of specific action and designing of detailed plans which become the precursor to the actual implementation of other regulations is a further stage. Which ones will depend upon which action levels have been identified by the assessment to trigger them.

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10 This initial phase

(i) DO WE HAVE A PROBLEM?

(ii) HOW SEVERE?

(iii) WHAT SHOULD WE DO?

would seem to be quite straightforward but in my day to day work I am asked for opinion regarding compliance with NAW Reg 4. Yet, even after nearly two years since their effective date my opinion of the ones I see is that a

MAJORITY OF ASSESSMENTS FAIL TO PROVIDE
THOSE MINIMUM BASIC LEGAL REQUIREMENTS.

11 After two years of implementation clearly these cannot be considered "competent" to make Noise Assessments. Reasons for this failure could possibly be complex. However, my view is the reasons are more fundamental.

12 There appears to be a failure to read properly what the regulations require or to read the official interpretive Guides⁽⁸⁾. Or, contrarily, reading into the requirements what is not there, assuming more than is spelt out for some parts while quite ignoring the duty imposed by another part of the same Regulation.

13 Competence in one field of Health and Safety does not mean that person is necessarily competent in another. Assuming that they are is one major cause of our problems. For instance the new COSHH Regulations⁽⁹⁾ also require assessments and their introduction has coincided with the new Noise Regulations. Many examples of poor assessments have come from people who are probably very competent in surveying Substances Hazardous to Health but then they have automatically been given the remit to carry over their work to include noise assessments which may then be considered a continuation of the previous work whereas the whole philosophy of noise survey reporting is not the same.

14 Typical of this type of "wrong approach" survey was one produced by one of the larger H & S Consultancies. It contained an extensive list giving details of more machines than I'd realised were in the factory. It must have been a time consuming expensive exercise and was certainly very impressive because carefully tabulated beside each were values in "dB(A)" and "dBmax". We can only make an educated guess as to how these were obtained or why because NAW Reg 4 is not satisfied and they form no other function as help to the company paying the bills.

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15 Another impressive but useless report was from a small jobbing press shop. Small batch production of some components can mean several changes a day with consequent continual changes and distribution of noise levels. Conscientious care had been taken to be on hand while work was done on each and every one of the presses so that readings at the operator positions in $1/3$ octave band frequency levels could be made. These levels were presented in two ways. First as columns of figures and secondly as graphs of frequency analysis. There were a pair of impressive sheets for every press and, like the Emperor's clothes⁽¹⁰⁾ accepted without question by a happy but confused employer who put each one in a plastic cover hanging from the relevant presses. He proudly showed these to an Inspector while asking what he was now supposed to do.

16 This Emperor's New Clothes philosophy to impress the unwary is unwarranted and even perhaps unethical but if our investigation shows the report does contain the information even if it is only to conclude that in the mass of detail the basics are "in there somewhere" there has to be a grudging acceptance. Elaborate in depth complicated instrument investigations have been used to record readings for subsequent read-out of very detailed time history exposures. Page upon page, graph following graph to produce a tome of enormous size. All the required information is there but it is difficult to extract and translate into easily understandable lay terms. Legislative enforcement cannot be used in such cases, just persuasion and the expressing of the opinion that their assessment reports are considered.

OVER ELABORATE, OVER EXPENSIVE

UNCLEAR, UNNECESSARY, UNHELPFUL

17 Beyond the minimum basic legal requirements of (i) do we have a problem? (ii) How severe? (iii) what should we do? comes the real help to the firm.

Tell them

(iv) HOW - WHO, WHERE, WHAT and WHY.

18 For instance the simple statement "ear protection should be provided in accordance with the relevant information" does, legally speaking, facilitate NAW Reg 8. It tells the employer what must be done in straightforward, no nonsense words. So it could be "competent" in terms of strict compliance.

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19 A good professional, commercial survey report could also tell an employer how to comply. If you have been employed as the expert give the company all the answers you can not simply satisfy legal minimum by telling them which questions need answers. The consultant could give detailed recommendations as to type, even models and brand names after ensuring that the company can get supplies at the best economic advantage for the company, the consultant's employer.

20 In a similar way, paraphrasing of regulations with statements like "adequately mark all zones where 90 dB(A) is exceeded" could be said to facilitate the legal minimum of NAW Reg 9. How much better for a competent professional to go further and say how to comply. Perhaps some simple alteration to a factory layout could reduce the size and number of zones. So making compliance easier, reducing numbers exposed and resulting in a cash saving.

21 Good assessment reports may, similarly, go beyond indicating the training under NAW Reg 11 although such statements may, strictly speaking, be a legal minimum "facilitating" that Regulation. Proposals and suggestions can vary depending if the company is large or small, has extensive or minimum exposure, even their in-house ability. Such advice regarding how to comply can be invaluable. Also the need (or not) for engineering noise control to reduce exposure as required by NAW Reg 7 can be expected to be very general for the legal minimum in the initial NAW Reg 14 assessments because after the detail required for final compliance can involve the sort of time consuming in-depth knowledgeable investigations and even specialist complex designs which are far beyond a simple assessment survey. Nevertheless clear guide-lines could be given, perhaps identifying the dominant source, outlining a programme of work or suggesting simple investigations to decide the most economic way to comply with the NAW Regs and improve the environment with limited resources.

22 A view has been expressed here that there may be two standards of assessment reports - a legal minimum and a user friendly one. The first facilitating the NAW Regs in a strictly legal sense must be the initial essential of all doing assessments (unfortunately it is not). The second goes beyond the strict basic minimum of NAW Reg. 4 requirements because the employer will have been alerted to the other NAW Regs and will need advice on how to comply with those other NAW Regs. Ultimately he needs to comply with the other NAW Regs as well, not just the Assessment, in order to satisfy his friendly neighbourhood Factory Inspector.

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23 This view of two levels of report quality is not critical of the basic survey requirement of NAW Reg 4. That is still the first, giant all important step. Initial appreciation may have been slow but time may show it as a major watershed for real and sustained industrial noise reduction on a par with the Code of Practice⁽¹¹⁾ and Practical Methods⁽¹²⁾ publication. Including the mandatory obligation for an assessment which then highlights the other NAW Regs the assessment triggers was a concept for progressive and lasting improvement.

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