

Health and safety in audio-visual production

Your legal duties



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Executive



CONTENTS

Introduction	1	
Obligations and responsibilities	1	General points
	1	Investor/commissioner (the client)
	2	Production company/producer
	3	Producers, managers and supervisors
	4	Individual workers/production crew
	5	Contractors
	5	Safety advisers or consultants
	6	<i>Production companies</i>
	6	<i>Individual productions</i>
	7	Chain of responsibilities (flowchart)
Capabilities and training	8	What is competence?
	9	How is competency judged?
	10	Training courses and competence
	10	Choosing a training programme
Risk assessment	10	What is risk assessment?
	11	Who should do risk assessment?
	11	How do I carry out a risk assessment?
	13	Example of a risk assessment for a camera platform
Notes on employment status	14	Self-employed/freelance workers
	14	Contractor
Further reading	15	



INTRODUCTION

This leaflet is for those working in film, broadcast, video and commercials production. It should help them understand and comply with their legal duties in maintaining safety, whatever their role in the production process.

The leaflet explains the obligations and responsibilities of the investor/client, production company, producer, contractors, designers, suppliers and other workers. It also provides practical advice on competence, training, risk assessment and employment status.

OBLIGATIONS AND RESPONSIBILITIES

General points

High standards of health and safety in production can only be achieved and maintained by everyone involved in the industry playing their part. This means recognising and accepting the different obligations and responsibilities that health and safety legislation places upon individuals or organisations.

Under health and safety legislation, the ultimate responsibility for health and safety rests with the employers involved and the organisations in control of premises and facilities. On a day-to-day basis, the producer has overall responsibility for ensuring that appropriate standards of health and safety are achieved and maintained throughout the production process.

The underlying need is for the production company to establish appropriate organisational structures that support risk control and place health and safety alongside editorial and/or dramatic considerations. There should also be good planning, communication, co-operation and co-ordination by and between all parties involved throughout a production.

Investor/commissioner (the client)

It is important that control of health and safety risks is taken into account at the tender/commissioning stage. These risks are more than just business risks, and involve legal and moral obligations. However, the logic and rigour of business and production planning can be usefully applied to the control of health and safety risks, and resources allocated according to risk. The risks from accidents and consequential losses (eg financial/lost-time/continuity/equipment) may be considered along with other, more conventional, business risks.

Before placing a commission, the commissioner must be satisfied that a production company has the knowledge, skills and experience to do the work safely. They need to recognise that different competencies are required for different projects or programmes, for example there will be completely different competencies for studio-based talk shows, sports events and dramas with special effects.

The commissioner should ensure that the production plans and proposals have properly considered the safety implications. They should also ensure that factors such as health and safety management arrangements, realistic timescales, adequate allocation of resources and specialist safety expertise have been considered. The degree of effort should be in proportion to the risks involved.

Production company/producer

As the employer, the production company and the producer should ensure the health, safety and welfare of everyone involved with and/or affected by the production activities, including the effective control of contractors.

The production company should:

- only undertake work for which it has been adequately funded;
- produce a written health and safety policy statement, including an organisation section detailing who is responsible for what, and an arrangements section, including the procedures for risk assessment and monitoring of performance;
- clearly identify who has control of the premises, location and facilities;
- use only competent staff, freelances and contractors (vetting and selection should include enquiries regarding health and safety competence);
- ensure that contractors and freelances are formally appointed and that company standards are clearly communicated to them (eg terms of trades, contractor rules, health and safety procedures);
- identify any additional training needs of staff and freelances and ensure these are met before production commences;
- ensure that contractors are provided with adequate information about the planned production activity so that they in turn can establish safe systems of work based on risk assessment (they may need to be invited along to any reces and production meetings as required);
- ensure that specialist advice is taken and implemented where necessary;
- ensure that a full risk assessment is undertaken for all activities under the control of the production, the appropriate controls are implemented for all identified risks and the significant findings of the assessment are recorded;

- ensure appropriate exchange of information regarding risk assessments between production and all affected parties (this might include local authorities, police or residents);
- ensure adequate co-ordination and communication between the various parties involved in the production;
- ensure that work begins only when adequate preparations have been made, including full assessment of all risks, selection of competent contractors and other production crew, clear assignment of responsibilities and rehearsals where necessary;
- ensure that all work throughout the life of a production is undertaken safely, in line with any company standards and/or the standards established by risk assessments (including those from contractors);
- ensure that staff and freelance employees are adequately informed and supervised throughout the production;
- report all accidents and reportable incidents, in line with company/production policy and legal requirements;
- communicate any changes that are likely to affect health and safety standards in the production clearly and with the maximum notice possible;
- monitor health and safety performance throughout the production;
- implement effective remedial action for any shortcomings in performance;
- ensure that any concerns with the health and safety performance of employees, freelance staff and contractors are addressed and communicated as appropriate;
- consult and involve employees in health and safety matters;
- ensure that working hours are managed effectively throughout all production activities.

Everyone involved with the production is responsible for ensuring health and safety standards for their own activities. Where the producer delegates performance of key stages of the production to suitably competent individuals, eg set design and build, or rigging, these people will be responsible for ensuring that the health and safety standards are met for their delegated tasks.

Producers, managers and supervisors

The production company may delegate to producers, managers, supervisors, heads of departments and senior crew the responsibility for ensuring that:

- employer's arrangements for health and safety are implemented;
- duties delegated to them are carried out;
- staff are adequately trained, competent and supervised as necessary;

- any health and safety concerns involving high-risk areas such as design, construction, striking, special effects or visual effects are brought to the attention of their employer;
- a full risk assessment is carried out at the design stage and that appropriate controls are implemented for all risks identified;
- significant findings of any risk assessments are recorded and relayed to the production crew;
- sets, scenery, props etc are designed and tested for safety before their intended use, and during construction, setting and striking;
- appropriate markings or warnings are provided/displayed on sets, scenery, props etc where there is residual risk, eg weight or stability for manual handling and for rigging or de-rigging;
- the production crew are informed of any maintenance, inspection or certification required for the continued safety of sets, scenery, props or special effects;
- staff, contractors and freelances employed are adequately supervised and are competent to carry out the required work;
- the production crew are made aware of any conflicting demands during production and of any significant health and safety issues associated with the design work;
- work is carried out in line with legal requirements and the production company's policy and procedures;
- adequate communication and co-operation is maintained between the production company and other contractors who may be affected;
- subcontractors are competent and adequately briefed.

It is common for certain key contractors to be involved at varying levels during the tender stage to comment on practicality and likely cost of sets, special effects etc.

Individual workers/production crew

Individual workers, location managers and production crew also have key health and safety responsibilities:

- to take reasonable care of themselves and others who may be affected by what they do or fail to do;
- to co-operate with the employer in carrying out activities intended to meet the employer's health and safety responsibilities, eg by following instructions, using personal protective equipment, reporting accidents and near-miss incidents;
- to work within the limits of their competence;
- to attend training as required by the employer;

- raise any health and safety concerns with their head of department, line manager or producer;
- co-operate with the producer or a nominated person in all matters relating to health and safety.

Contractors

Contractors are jointly responsible, with the production company, for working in a safe manner in accordance with relevant legal requirements. They should ensure that:

- employees and any subcontractors are competent to carry out the work activity;
- performance of their employees and subcontractors is monitored;
- site rules or production safety procedures are followed;
- they co-operate and co-ordinate with the production crew and any other people who may be affected by their activities;
- risk assessments are carried out for their activities and the necessary control measures are implemented;
- significant findings of any risk assessments and the necessary control measures are adopted and communicated to everyone who may be affected;
- health and safety concerns are raised at the earliest possible occasion with production;
- a contact person is nominated for health and safety issues and they communicate with production and other contractors on health and safety matters;
- machinery and equipment is properly maintained, appropriate for the intended task and operators are competent;
- a system of communication and co-ordination is set up between any subcontractors;
- recesses are attended as required;
- the production company is informed promptly of any accidents and incidents.

Safety advisers or consultants

To comply with health and safety legislation, employers should appoint one or more competent persons to assist the employer to comply with their legal duties. This does not mean that a specialist health and safety adviser (or consultant) is required for all productions; in many cases an experienced, competent person within the production will be better suited to the role.

There are many different approaches to managing safety effectively and these strategies in themselves will help decide where and when you require specialist or external help in this field. Companies who have invested time and resources into training and developing effective safety management systems are more likely to be able to delegate safety responsibility to a suitably competent person within a team. Equally, those productions conducting low-risk work are not likely to need specialist or external health and safety advice.

In some cases where specialist or external advice is required on safety grounds it may be better to involve a suitably qualified expert in a particular discipline, for example adventure activities or rock climbing, rather than having general safety advice. Responsibility for the successful management of safety cannot be delegated to an external health and safety adviser. They can support and advise, but the responsibility for health and safety remains with the employer.

Typically, health and safety advisers can assist either production companies (or commissioners) or individual productions as follows:

Production companies

- Advice on development of health and safety management systems, including health and safety policy documents, risk assessment strategies, accident reporting systems etc
- Assistance on the need and provision of health and safety training
- Auditing health and safety systems and practices (a check on existing arrangements)
- Accident investigations
- Monitoring and reviewing health and safety performance
- Providing information on new health and safety legislation and best practice
- Representing special interests of the production company in dealings with the enforcing authorities and other agencies
- Advice on planning for emergencies
- Writing guidance where a need has been identified

Individual productions

- Advice on developing health and safety plans for the production
- Advice on hazard identification, risk assessment and control strategies
- Assistance in monitoring safety practices
- Advice on selection of competent contractors
- Advice on requirements and specifications of safety equipment and personal protective equipment

Chain of responsibilities

Production company	
<p>Legal responsibility for health and safety in their productions. Must produce health and safety policy; ensure co-operation, co-ordination and communication; make arrangements for the consultation and involvement of employees in health and safety matters.</p> <p>Allocate adequate resources to health and safety. Select and appoint competent production crew; allocate responsibilities for health and safety at key stages of production to competent individuals.</p> <p>Ensure that risk assessment is carried out; plan, implement and monitor health and safety throughout the production.</p> <p>Activities include risk assessment and adoption of control measures; selection of competent crew and contractors; consultation and involvement of employees; set design and build; insurance; emergency arrangements; accident and incident reporting and investigation; liaison with local authorities; training; safe systems of work; welfare provisions; hours of work; safety preparations for location work and monitoring of standards.</p>	
Producers, managers, supervisors, heads of departments or senior crew members	
<p>Competent individuals, eg managers, supervisors, HoDs or certain senior crew members, delegated responsibility for applying health and safety standards throughout production. Clear lines of communication to be established with these individuals to know, understand and implement their delegated tasks to the required standard.</p>	
<p>Experienced crew</p> <p>Use safety equipment.</p> <p>Follow safety procedures, report accidents and incidents.</p>	<p>Genuinely self-employed individuals</p> <p>Organise and manage own work, carry out risk assessment of their activity, co-operate and co-ordinate with others who may be affected by work activity.</p>
<p>Studio location</p> <p>Owner/occupier of premises where work is to be carried out is responsible for providing and maintaining a safe place of work with safe access and egress</p>	<p>Contractors</p> <p>Suppliers of services and/or equipment are responsible for provision of services or equipment in a safe condition, with trained, competent operators, risk assessment and provision of relevant information.</p>
<p>Inexperienced worker/trainee</p> <p>Need to take reasonable care of themselves and others who could be affected by their activities. Co-operate with employer.</p> <p>Will need special supervision.</p>	

CAPABILITIES AND TRAINING

The Management of Health and Safety at Work Regulations 1999 require employers to take account of their employees' capabilities regarding health and safety. The production company/producer must therefore ensure that the demands of the task do not exceed their employees' ability to carry out the work safely, without risk to themselves or others. They must also ensure that training is provided where it is needed (including refresher training). The process of risk assessment will help determine the level of training and competence needed for each particular task.

What is competence?

Competence is a combination of knowledge, skills and practical experience that a person has to have to be able to do a particular task properly. This includes not only the routine task, but also the unexpected situations and changes. Coping with these competently requires understanding and flexibility.

Training helps people to acquire knowledge and skills, two of the essential ingredients for competence. It does not make people competent by itself. There will also be people who have had no formal training but their experience and achievements clearly establish that they are competent.

The amount of knowledge and experience required for someone to be deemed 'competent' varies for different tasks within the same job or function and between different jobs or functions. For example, some cameramen may be extremely competent in relation to studio-based work, but few would cope if the work were to be carried out underwater or from a helicopter.

Competence should therefore be judged in light of the work to be undertaken; a person may be competent for simple tasks in a given field but not competent for more complicated tasks in the same area without supervision from a more experienced (and more competent) person. The competent person should also be aware of their own limitations.

A competent team is one that has a mix of skills among its members that can then satisfy the particular needs of the production by the team operating as a whole.

How is competency judged?

The production company/producer needs to make reasonable enquiries and be satisfied that the person or company is competent to carry out the activity for which they are to be engaged.

Selection criteria could include:

- examples of experience of this type of work - testimonials from previous clients, portfolio of work;
- membership of professional organisations and associations;
- training records and qualifications, including safety training;
- examples of risk assessments and control measures adopted;
- proof of equipment certification and/or maintenance records;
- insurance information.

The answers given may be enough to make an initial judgement but it is important that the process does not stop here. Detailed questioning may still be required. The production company/producer will probably want to have some written proof of training, experience, safety records, equipment certification etc. The depth of enquiry should be related to the particular activity or function so that the production company/producer is comfortable with their decision. It may be appropriate to ask some job-specific questions, for example:

- Have you worked on this type of production before?
- How would you find out which safety procedures were relevant?
- What do you think your health and safety limitations are in relation to this work?
- How would you rate your health and safety competence for this work?

If there is a match between what the production company/producer is looking for and the candidate's knowledge, skills and experience, then the candidate would be deemed to be competent based on the reasonable enquiries. If not, a training need may have been identified which should be addressed.

At the end of the engagement, the production company/producer should review the performance of an appointee, for example by asking whether the work was carried out to the correct standard and any training was effective.

Training courses and competence

Although training courses alone cannot make someone competent, practical work and simulation can help them develop the skills required to complete the task to the appropriate standard.

When deciding what training is needed, decide what it is that you want people to be able to do and find out what they can do already. You can evaluate the effectiveness of the training by measuring how well trainees have bridged that gap.

Choosing a training programme

A good training programme will make use of both written and practical assessments of a trainee's ability and knowledge. Training which is mapped against competence-based standards is more likely to provide proof that candidates have the skills and expertise to perform to an agreed standard in the workplace.

There are many providers both inside and outside the film and broadcasting industry who can provide safety training either as stand-alone courses or as part of professional training qualifications. Companies may choose to develop their own safety training courses and assessments to suit their particular needs.

Someone may need to attend more than one training course or obtain more than one qualification before they can be considered competent.

RISK ASSESSMENT

What is risk assessment?

Risk assessment is a careful examination of what could cause harm to people, so the production company/producer can weigh up whether adequate preventive or control measures have been taken or more should be done to prevent harm and to ensure that minimum legal standards are met.

You need to determine whether there are any significant **hazards** involved with the production activity and whether sufficient precautions have been taken to reduce the **risk**.

A hazard is something that can cause harm, eg chemicals, electricity, noise,

work at height, loose cables. A risk is the chance that somebody will be harmed by the hazard, usually classified as high, medium or low.

Who should do risk assessment?

A competent person, who has knowledge, experience and understanding of the task or activity under assessment, should carry out the risk assessment. If special technical knowledge is required, more than one person may be required, including someone who has the necessary competence in the particular activity, eg stunts, special effects, flying, animals, set design.

The producer is responsible for ensuring that risk assessments are completed for their productions. In practice, they may delegate risk assessment to other people, such as production managers, designers, heads of departments, the location manager or the unit manager.

In this case, the producer must ensure that:

- the person delegated is competent to perform the assessment, if necessary, by providing training in risk assessment procedures or other aspects of health and safety;
- the assessment is carried out;
- necessary controls are implemented effectively throughout the production;
- the assessment is reviewed where changes or new circumstances have made the original assessment no longer valid.

For small-scale productions in low-risk situations, eg those involving a single camera or small crews, it is likely that the assessment can be carried out by the crew on the ground. The production company/producer must ensure that crew working on this style of production have the necessary competence to perform risk assessment and implement effective controls.

In the case of 'non-production' activities, the responsibility for assessment rests with the departmental manager. Again, they are likely to delegate the assessment to others but will still retain the responsibility for ensuring that those to whom they delegate are competent to perform the assessment, that the assessment is carried out and the necessary controls are implemented effectively and reviewed.

How do I carry out a risk assessment?

There are five simple steps in risk assessment:

Step 1 Look for hazards

Don't get bogged down with trivial hazards; concentrate on those posing a significant risk of injury or harm.

Step 2 Decide who might be harmed and how

Think about who may be affected and those who are particularly at risk.

Step 3 Evaluate the risk

Consider the chance and severity of harm that each hazard may cause, taking existing control measures into account.

Judge whether an actual risk (high, medium or low) is likely from the identified hazard. Determine the necessary control measures using the following hierarchy of approach:

- avoid the risk completely; but if this is not possible
- reduce the risk to acceptable levels;
- provide training and instruction, and personal protective equipment if the risks cannot be controlled in any other way;
- reduce risk at source by developing safe systems of working, giving collective measures priority.

Step 4 Record the significant findings

The significant findings of the risk assessment should be recorded and communicated to those people who may be affected. In practice, this means ensuring that the production team and any contractors are informed of the significant hazards, the likely risks and the required control measures. Keep a record for future reference, it will help to demonstrate compliance with legal duties. The legal requirement to record findings applies if five or more people are employed but smaller companies are recommended to record details in order to show that they have carried out risk assessment.

Step 5 Review and revise your risk assessment

New hazards can be introduced if there is any significant change in the activity, equipment, substances or procedures. Risk assessments should be revised following any significant change or when they become out of date. If there have been no changes, the assessment should be reviewed at least once every three years to ensure that the precautions are still working effectively.

Example of risk assessment for a camera platform: Production wants to use a tower scaffold as a camera platform. The producer delegates the task of conducting the production risk assessment to the production manager

Hazards	Who is at risk?	Controls	Severity of injury	Chance of injury	Risk	Control measures
Falling from height	Camera operator	Scaffold erected by competent contractor to industry standard. Guard-rails, mid-rails and toeboards in place. Safe access to platform	Serious	Low	Low	Access onto mobile tower platform restricted to camera operator Camera operator instructed not to lean over or stand on guard-rails
Falling objects and equipment	People at ground level	Toeboards fitted	Serious	Low	Low	All equipment Secured to scaffold. No loose items. Barriers and warning signs erected to restrict access below tower scaffold
Scaffold falling over	People at ground level	Scaffold erected and regularly inspected by competent contractor	Serious	Low	Low	Scaffold checked before use. Scaffold not to be used in event of bad weather

NOTES ON EMPLOYMENT STATUS

Self-employed/freelance workers

People working under the control and direction of others may be treated as self-employed for tax and National Insurance purposes but may nevertheless be treated as 'employees' for health and safety purposes. If any doubt exists about who is responsible for an individual's health and safety, it should be clarified in the terms of contract. However, remember that a criminal legal duty cannot be absolved nor transferred by means of contract. Legal advice should always be sought **before** attempting to engage workers on the basis that they will be responsible for their own health and safety.

In broad terms, 'freelance' is generally applied to anyone who is not permanently employed, but is engaged on a short-term or fixed-term contract to provide services in a personal capacity. Where a freelance is clearly working under the direction of the employer or the employer's agent, they should be treated as an 'employee' for health and safety purposes. Tax status is not the deciding factor in making this judgement.

Where a freelance is clearly **not** working under the direction of the employer or the employer's agent, but is responsible for organising or scheduling their own work or equipment, and is taking a business risk, then they are not likely to be an employee for health and safety purposes.

Contractor

The term contractor is best reserved for companies who provide services to a production. It will also include suppliers of goods, machinery and equipment. The services may often be supplied as a package, together with one or more contractors' employees acting as drivers or operators etc.

FURTHER READING

Five steps to risk assessment Leaflet INDG163(rev1) HSE Books 1998 (single copy free or priced packs of 10 ISBN 0 7176 1565 0)

Facts for freelances: Health and safety in broadcasting and the performing arts Leaflet INDG217 HSE Books 1996 (single copy free)

Use of contractors: A joint responsibility Leaflet INDG368 HSE Books 2002 (Single copy free or priced packs of 10 ISBN 0 7176 2566 4)

Special or visual effects involving explosives or pyrotechnics in film and television productions Entertainment Information Sheet 16 HSE Books 2002

Stunts, fights and other potentially hazardous production activities Entertainment Information Sheet 17 HSE Books 2002

Buildings used for locations and temporary studios in film, television and theatre Entertainment Information Sheet 18 HSE Books 2002

Safe design and build of production sets used for film and television Entertainment Information Sheet 19 HSE Books 2002

FURTHER INFORMATION

Please see the following website for information on training:
www.skillset.org

HSE priced and free publications are available by mail order from
HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA
Tel: 01787 881165 Fax: 01787 313995
Website: www.hsebooks.co.uk (HSE priced publications are
also available from bookshops and free leaflets can be downloaded from
HSE's website: www.hse.gov.uk)

For information about health and safety ring
HSE's InfoLine Tel: 08701 545500 Fax: 02920 859260
e-mail: hseinformationservices@natbrit.com or write to
HSE Information Services, Caerphilly Business Park,
Caerphilly CF83 3GG.

This leaflet contains notes on good practice which are not compulsory
but which you may find helpful in considering what you need to do.

This leaflet is available in priced packs of 5 from HSE Books,
ISBN 0 7176 2551 6. Single free copies are also available from HSE Books.

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