

Summary of comments received on Consultative Documents 190 and 191 and recommendations for action

Overview

133 comments were submitted in response to the consultation. A list of those who commented has been posted on our vibration web pages. The comments we received were generally supportive of the proposals for regulations and guidance on hand-arm vibration, which was seen as a widespread and serious problem. Views on the whole-body vibration (WBV) elements were mixed with some feeling the evidence for regulation in this area was insufficient, while on the other hand, some commentators believed that WBV was a clear risk for many workers. Most commentators recognised that other factors for low-back pain which affected vehicle and machine operators, such as manual handling and poor posture needed to be addressed alongside WBV.

Other concerns were that parts of the regulations and guidance, in particular the exposure action and limit values and the schedules on how to calculate exposure, were technical and difficult for employers to understand. And that the requirement to assess exposure to vibration would be costly and difficult. Also, there were concerns about the practicalities of providing health surveillance for employees.

The recommendations set out on the following pages will, we believe, meet many of the concerns raised. The recommendations include providing simple, concise guidance for employers which will allow them to understand what they need to do to comply with the regulations. The guidance should not contain any technical or mathematical material but should allow employers to assess risk simply and to control risk with straightforward practical measures. For those employers who wish to calculate exposures we will provide a wide range of vibration data for equipment and machines used in the workplace together with a range of simple tools such as ready-reckoners which can be used to produce exposure data which can be compared with the exposure action values and exposure limit values. HSE is collaborating with Sectors such as agriculture, forestry, construction, mining and quarrying to carry out research which will provide new and relevant WBV data for a wide range of machines and vehicles. This data will be published and should assist employers to carry out simple WBV risk assessments. HSE will also continue to work with the Faculty of Occupational Medicine and others to encourage increased provision of occupational health support for HAVS risks.

Contents	Page
 Issue 1: HSE's draft guidance	
Question 1: Do you agree with the proposal to issue the guidance on HAV and WBV as separate documents?	4
Question 2. Do you think the short guide for employers (part 1) of the guidance should remain as part of the main guidance?	5
Question 3. Is the overall structure and content of the guidance helpful?	6
 Issue 2: The transitional provisions	
Question 4. Do you agree that the transitional periods should be incorporated into the Regulations and be available to all industries rather than be decided by HSE on a case-by-case basis?	7
Question 5. Do you agree that the transitional periods should apply to second-hand and hire equipment provided it is sold or hired out for the first time before July 2007?	8
Question 6 Can you identify a particular reason why the transitional period for HAV for agricultural and forestry work should be extended beyond 6 July 2010 to 6 July 2014?	9
 Issue 3: The choice of method for defining WBV exposure action and limit values	
Question 7. Which option should be used for setting the WBV exposure limit value and exposure action value?	11
 Issue 4: Determination and assessment of risks	
Question 8. Do you agree that where available, suitable published HAV and WBV information could be used by employers to produce a risk assessment rather than their needing to measure vibration exposure?	12
Question 9. Do you agree that measurement may be necessary on some occasions?	13
Question 10. Do you agree that the employer or one of his employees could carry out a vibration exposure assessment using relevant published vibration information?	14
Question 11 Do you agree that the employer or one of his employees could be trained to carry out vibration measurements?	15

Question 12	Do you agree with HSE’s guidance on the necessary competence to carry out a risk assessment and when the services of a consultant may be needed?	16
Question 13	Do you agree that risk assessments should be updated on a needs basis rather than at fixed intervals, e.g. every 2 or 3 years?	17

Issue 5: Derogations

Question 14	Do you think the decision on whether the weekly averaging derogation can be used should be delegated to individual employers rather than by application to HSE?	17
-------------	---	----

Issue 6: Health surveillance

Question 15	Do you agree with the proposal that a tiered system of health surveillance for hand-arm vibration syndrome is appropriate and would be effective?	19
Question 16	Do you agree with the criteria outlined in paragraph 41 for when health surveillance should be undertaken?	21
Question 17	Do you agree that formal health surveillance is not appropriate for WBV?	22
Question 18	Do you agree with the proposal in the guidance that a voluntary system of health monitoring covering risks from manual handling and posture as well as WBV should be used where risks are high?	22

General

Question 19	Are there any general comments you would like to make about the Regulations or guidance?	24
Question 20	How well do the CDs represent the different policy issues involved?	25
Question 21	Was there anything you particularly like or disliked about the consultation?	25

Summary of the comments received on Consultative Documents 190 and 191 with recommendations for action

Questions and proposals set out in the CDs	Number of respondents:		Summary of main comments	Recommendations for action
	agreeing with proposal	Disagreeing with proposal		
Issue 1: HSE's draft guidance				
Q1. Do you agree with the proposal to issue the guidance on HAV and WBV as separate sets of documents?	102	17	Most respondents felt that HAV and WBV were different hazards affecting distinctly different work activities and that guidance for each should be separate. It was felt that separate guidance would reduce complexity and make it easier to follow for the relevant hazard. For example the respective control measures for HAV and WBV are different and inclusion of both in one document could be unhelpful. However, some employers who would have to deal with both hazards felt that combined guidance for HAV and WBV would be better for them. Others suggested that cross-referencing the two sets of guidance would be important.	To produce separate guidance for HAV and WBV. To cross-reference the two sets of guidance so that employers will be able to decide if they need both sets.

Questions and proposals set out in the CDs	Agreeing with proposal	Disagreeing with proposal	Summary of main comments	Recommendations for action
Q2. Do you think the short guide for employers (part 1) of the guidance should remain as part of the main guidance?	73	29	General welcome for a short, simple guide as an introductory part of the main guidance book, but many thought it should be also available separately as a free leaflet to allow employers a chance quickly to familiarise themselves with the subject and to decide if they had a problem. Some felt it would be important to have it and other sections available on HSE's web site allowing employers to download the sections they wanted.	<p>To continue with existing plans for free plain language leaflets which will be aimed to help employers (particularly SMEs) and employees to take simple and straightforward actions to assess and control risk.</p> <p>To continue with plans for priced publications and web-based material which will provide further guidance on the meaning of the regulations, the assessment of risk, vibration measurement and the provision of health surveillance. This latter guidance will be aimed at health and safety professionals, occupational health practitioners and vibration specialists. Some employers may wish to use it in addition to the leaflets so we intend to include a plain language introductory section.</p>

Questions and proposals set out in the CDs	Agreeing with proposal	Disagreeing with proposal	Summary of main comments	Recommendations for action
Q3. Is the overall structure and content of the guidance helpful?	80	16	<p>Several respondents felt the guidance was comprehensive, well-organised and well-structured. Some made specific suggestions for improvement for example publishing the short guide (Part 1) as a free leaflet but expanding it to cover risk assessment in more detail to allow SMEs to carry out a risk assessment without needing to refer to the detailed main (priced) guidance.</p> <p>Some respondents suggested it was variously: too long; repetitive; too technical; complex; excessive use of jargon and formulae; less clear than previous regs and ACOPs; impractical for SMEs to master the science behind vibration measurement. Some felt it should be simplified and split into industry specific guides.</p>	<p>The draft guidance material in the consultative documents will be carefully reviewed and improved with a view to presenting the guidance to employers separately from that for health and safety professionals, occupational health professionals etc. The guidance for employers will be in concise, plain language and will provide straightforward, practical advice which will be sufficiently comprehensive to allow them to comply with the regulations without need for technical or medical expertise.</p> <p>The generic guidance should be relevant to all industry sectors, but the need for sector guidance could be considered later.</p>

Questions and proposals set out in the CDs	Agreeing with proposal	Disagreeing with proposal	Summary of main comments	Recommendations for action
Issue 2: Regulation 3 Transitional Provisions (Directive Article 9)				
Q4. Do you agree that the transitional periods should be incorporated into the Regulations and be available to all industries rather than be decided by HSE on a case-by-case basis?	100	1	<p>There was broad support for HSC’s proposal for transitional periods, although several trade unions, had strong objections to delay in the application of the exposure limit values. Others commented that the transitional periods were essential to allow new lower vibration equipment to be developed and marketed. Some felt HSE’s proposal would be particularly helpful to small and medium-sized enterprises, by avoiding the need for bureaucratic approval systems.</p> <p>It was generally accepted that a system which would require employers to apply individually to HSE for the derogation would be unworkable. However, some felt that there was scope for abuse under HSE’s proposal and that HSE would need to monitor the situation carefully. Some were not clear about whether they must buy new lower vibration equipment as soon as it became available or would be allowed time to phase in new equipment during the transitional periods.</p> <p>Respondents from a number of industries, including railways and quarries felt that their industries needed a longer WBV transitional period on a par with, or longer than that available to agriculture and forestry because they would face similar need for replacement of high-cost plant which would otherwise have continued in use for many years.</p>	<p>To reinforce in guidance that the transitional periods only apply to the exposure limit values, and that from July 2005 all other requirements of the regulations would come into force and would ensure that risks were controlled so far as is reasonably practicable.</p> <p>To incorporate the transitional periods into the regulations and make them available to all industries.</p> <p>To provide guidance, including examples, on when the transitional periods may (and may not) be used by employers.</p> <p>To provide guidance on when it might be appropriate to replace equipment immediately and when it would be appropriate to phase in its replacement more gradually.</p> <p>To complete WBV Research commissioned by HSE in</p>

				<p>collaboration with agriculture, construction, mining, quarrying and forestry sectors which will help establish whether there will be practical problems in their complying with the WBV exposure limit value.</p> <p>The Directive only allows the extended transitional period to 2014 for the specified industries.</p>
<p>Q5. Do you agree that the transitional periods should apply to second-hand and hire equipment provided it is sold or hired for the first time before July 2007?</p>	90	5	<p>Broad agreement with HSC's recommendation. Specific points made included:</p> <ul style="list-style-type: none"> - the proposal will help many small companies which can only afford to hire or buy second-hand equipment - the costs to construction industry would otherwise be prohibitive - this flexibility is needed in industries such as rail transport which often transfers maintenance contracts resulting in workers and equipment moving between different companies. - some companies use equipment internally as well as hiring it out. It would be anomalous to treat the same equipment differently for each circumstance. <p>There were a number of concerns and observations expressed about the proposal, including:</p> <ul style="list-style-type: none"> - that high risk tools should be supplied with an 	<p>To incorporate the provision that the transitional periods should apply to second-hand and hire equipment sold or hired out before July 2007.</p> <p>HSE to liaise with tool manufacturing and hire companies to encourage provision of helpful information to employers on equipment and its safe use.</p> <p>HSE to provide guidance to employers on selection factors for equipment, whether new, second-hand or hired.</p>

			<p>appropriate warning</p> <ul style="list-style-type: none"> - employers would need to be guided on the need to change equipment on a reasonable timescale - that HSE should promote hire company and manufacturer cooperation - Unlikely that hire companies would continue to hire out equipment which has been assessed as high risk - that hire companies should not go on supplying non-compliant equipment after 2007 - there was a danger of abuse i.e. retaining defective equipment when new lower vibration tools became available. - Many companies use hire equipment and will have difficulty complying if hire companies only offer outdated equipment 	<p>HSE to provide guidance on reasonably practicable timescales for changing equipment, once new lower vibration designs become available.</p>
<p>Q6. Can you identify a particular reason why the transitional period for HAV for agricultural and forestry</p>	<p>1</p>	<p>39</p>	<p>Broad support for HSC's proposal not to extend the HAV transitional period to 2014 for agriculture and forestry, although most respondents were not involved in those industries.</p> <p>The Forestry Commission expressed a view that the industry will need time to ensure that any changes to work equipment and working methods are adopted into</p>	<p>Although the Directive allows for the HAV transitional period to be extended to 2014 for agriculture and forestry sectors, we propose not to extend it beyond 2010. We have discussed this with the Forestry Commission and they accept that</p>

work should be extended beyond 6 July 2010 to 6 July 2014?			normal working practice. And that findings of current research on work practices would need to be evaluated before making a decision.	there is no evidence that they have a particular case for extension since equipment and work practices should allow them to comply with the exposure limit value by 2010.
--	--	--	---	---

Issue 3 (Whole-body vibration): Regulation 4 and Schedule 2 Exposure Limit and Action Values (Directive Article 3) – Use of A(8) or Vibration Dose Value for defining the values.

Q7. Which option should be used for setting the WBV exposure limit value and exposure action value?	Options	A	B	C	D	Majority support was for option A. Points made included:	It is recommended that Option A is used.
	ELV	A(8)	VDV	A(8)	VDV		
	EAV	A(8)	VDV	VDV	A(8)		
	scores	40	4	6	1	<p>-using two different metrics would be confusing for employers.</p> <p>- VDV is complicated and difficult to understand and more onerous for SMEs</p> <p>-A(8) cheaper and more easily understood</p> <p>-VDV is incompatible with the idea that the risk assessment is simple and can be carried out by the employer</p> <p>-A(8) is widely understood and used throughout the EC</p> <p>-all other member States will use A(8)</p> <p>-machinery manufacturers do not publish VDV data</p> <p>-VDV is more strict and will increase costs– UK should not be more strict than other Member States</p> <p>-Assessing risk in two methods is more expensive</p> <p>There was support for VDV from some on the grounds that it was better able to represent risks from shocks and jolts</p>	<p>While it is likely that shocks and jolts may pose a greater risk than steady-state vibration, and that VDV represents this risk better than A(8), rather than use VDV for the EAV or ELV we propose to advise employers, in guidance, to identify shocks and jolts by observation and by anecdotal reports from drivers and to introduce controls to minimise such risks.</p> <p>We will also recommend in guidance that those who measure whole-body vibration on vehicles and machines such as researchers, vehicle manufacturers and vibration consultants should measure in VDV as well as A(8) to help identify risks from shocks and jolts.</p>

Questions and proposals set out in the CDs	Agreeing with proposal	Disagreeing with proposal	Summary of main comments	Recommendations for action
Issue 4: Regulation 5 Determination and assessment of risks (Directive Article 4)				
Q8. Do you agree that where available, suitable published HAV and WBV information could be used by employers to produce a risk assessment rather than their needing to measure vibration exposure?	89	6	<p>Responses on this issue showed strong support for the proposed approach but also raised a wide range of concerns about practicability: Some of the comments were:</p> <ul style="list-style-type: none"> -cost of measurement would be a major deterrent to action by SMEs -measurement will produce variable data anyway -important that non-technical people can carry out a risk assessment - need for measurement should be minimised -good data must be made available -lack of published data especially for for older tools -measurement may be necessary for older or poorly maintained tools - published information is unreliable and its use could result in over-exposure of workers -equipment suppliers are unlikely to supply meaningful data - manufacturers should provide vibration information -the default response in HSEs' guidance is to measure – this is wrong -flow chart needed in guidance to show when to measure 	<p>To provide in guidance simple rules of thumb which should allow an employer to make a reasonable judgement about whether the EAV or ELV is likely to be exceeded. This should be sufficient for the majority of employers, and in particular SMEs, to do a simple risk assessment and to introduce a programme of risk controls where appropriate.</p> <p>For those employers who wish to assess likely exposures more precisely, we propose to provide in guidance or on HSE's website typical vibration data related to workplace operating conditions for a wide range of equipment.</p> <p>Much HAV data is already available and HSE in</p>

			<ul style="list-style-type: none"> - person doing risk assessment will need relevant competencies -data is only relevant if tool it relates to is properly maintained -presentation of the data needs to be in a consistent form -avoid need for vibration assessment by moving directly to best practice tool use management (similar to control of hazardous substances) -The workforce and safety representatives must be involved where use of published data is proposed -measurement should be used where safety representatives raise concerns or the exposure is suspected to be above the action value. - published information can be useful but must not preclude the risk assessments being carried out properly, including measurements 	<p>collaboration with industry has commissioned a number of research projects which will produce vibration data for a wide range of industrial vehicles and machines.</p> <p>See below regarding measurement</p>
Q9. Do you agree that measurement may be necessary on some occasions?	83	10	<p>It was generally agreed there will be cases where measurement is appropriate, but comments made that:</p> <ul style="list-style-type: none"> - vast majority of companies will not have resources to measure -measurement should be the exception rather than the rule -it is important that guidance for SMEs is clear or they will spend money unnecessarily on consultants - for the farming industry measurement will be a pointless and expensive exercise because of the variables (task, speed, terrain, different levels of skill and different workers) on different days -the Supply of machinery (Safety) Regulations should be 	<p>To make clear in guidance that measurement is expected to be the exception for the majority of employers (see Q7 recommendations) but to give examples of when it may be appropriate.</p>

			<p>amended to place a duty on equipment manufacturers to provide data for range of intended uses</p> <ul style="list-style-type: none"> -where user uses equipment outside of design parameters it is for the user to measure - it should be used where injury might have been caused by WBV or where surveillance suggests a vibration related disease. -measurement needs to be carried out regardless of any published data - measurement when EAV likely to have been exceeded rather than only when ELV likely to be approached. 	<p>HSE to continue to work with relevant EU committees to improve the way the machinery Directive works in this respect and to clarify what help the manufacturer should provide to their customers.</p>
<p>Q10. Do you agree that the employer or one of his employees could carry out a vibration exposure assessment using relevant published vibration information?</p>	85	5	<p>There was general agreement that this was possible and desirable, subject to good, simple guidance, training, adequate competency and the availability of suitable published vibration data. The non-availability of data for older equipment was a concern and some felt that specialised knowledge would be needed to be able to use data properly. It was suggested that this approach should only apply to low risk applications. Some believed there would be a need for measurements to defend against civil claims. Trade unions believed that safety representatives should be consulted where such an approach was planned.</p>	<p>It is proposed that, for those employers who wish to use published data to calculate exposure assessments, various aids will be provided to assist them to do this quickly and easily. These will include a web site calculator, a ready reckoner and an exposure chart available in published guidance.</p> <p>HSE will also publish a wide range of vibration data (see Q7 above)</p> <p>The draft guidance explains that safety representatives should be consulted about the risk assessment.</p>

<p>Q11. Do you agree that the employer or one of his employees could be trained to carry out vibration measurements?</p>	<p>77</p>	<p>17</p>	<p>Most thought it was feasible if you chose a competent person and provided good training. But there were concerns about the cost of training and of measuring equipment. Also that there was a need for national standards for the training to prevent competence being challenged in court.</p> <p>Measurement was regarded as technically complex. Some thought that training to measure would take more than a few days and it was only a realistic proposition for bigger employers. Some felt measurement added no value and training would simply add to the cost. It also was felt to be less practical for small businesses. There were practical concerns about calibrating equipment and ensuring agreed measurement standards were followed.</p> <p>It was suggested that training would need to be regularly updated, particularly if the skills were used only infrequently. But for larger companies it might be viable and that training cost might be saved fairly quickly from savings in consultancy costs.</p> <p>One consultant suggested that only chartered mechanical engineers with vibration measurement experience would be able to measure properly – there were many pitfalls in making measurements and measurement could produce widely varying results.</p>	<p>To provide guidance to help those employers who wanted to carry out their own measurements with information on suitability of people for training, what training should cover, where to get it, and what to expect from trainers.</p> <p>But to make clear in guidance that the majority of employers are not expected to measure, but to use other simpler methods of risk assessment.</p>

<p>Q12. Do you agree with HSE's guidance on the necessary competence to carry out a risk assessment and when the services of a consultant may be needed?</p>	<p>76</p>	<p>16</p>	<p>There was broad agreement with HSE's guidance on competence and its importance, but qualified with a number of comments and suggestions:</p> <ul style="list-style-type: none"> -Some thought more emphasis should be placed on knowledge of workplace activities and the operating conditions of the equipment in use - many consultants don't know how to operate tools correctly. -it will be hard for employer following guidance ever to be content they have done enough to comply. Guidance needs to be redrafted to emphasise measurement should not be done routinely -HSE alone should not determine standards of competence -guidance says that on one hand, assessment is simple but on the other hand, implies that consultants will often be needed. This is confusing. Needs to be much clearer about when consultants might be needed. - how can employers identify a competent consultant? - may be useful to use a consultant initially but later training and updating the risk assessment oneself. - consultants should only be used where the situation is complex -need to balance cost of consultant against cost of something going wrong -better guidance needed on what a company should expect to receive from a competent vibration consultancy 	<p>To review our guidance on competence and consultants with a view to addressing the issues raised.</p> <p>To make clear in guidance that most employers and/or their employees will not need to undergo training in vibration assessment, nor will they need to engage vibration consultants.</p> <p>But for those who wish to do so we will provide helpful guidance.</p>
--	-----------	-----------	---	--

<p>Q13. Do you agree that risk assessments should be updated on a needs basis rather than at fixed intervals, e.g. every 2 or 3 years?</p>	<p>92</p>	<p>8</p>	<p>Most people agreed that risk assessments should be reviewed when the need arose, for example when new work equipment or work practices were introduced or became available, or when vibration related ill-health was identified. But many felt that these <i>ad hoc</i> reviews should be supplemented by fixed reviews as a check to ensure changes had not been overlooked. Most felt these should be at 2 or 3 year intervals. But that they could be fairly quick simple checks.</p> <p>A view was expressed that industry needed certainty about what it was required to do.</p>	<p>To recommend in guidance that reviews of the risk assessment are carried out whenever there are changes to equipment or work processes or where ill-health problems appear which may affect vibration exposure, but also to carry out reviews at fixed intervals, as determined by the risk assessment, to ensure that no such changes have been overlooked.</p>
<p>Issue 5: Regulation 6(4) Derogations (Directive Article 10)</p>				
<p>Q14. Do you think the decision on whether the weekly averaging derogation can be used should be delegated to individual employers rather than by application to HSE?</p>	<p>90</p>	<p>8</p>	<p>There was a majority in support of the proposal, with a minority raising strong objections.</p> <p>It was argued that if employers were considered to be competent to do a risk assessment they should also be considered competent to do weekly averaging. Also, the rationale for their decision would be shown in the risk assessment and therefore available to enforcing authorities, safety representatives and employees.</p> <p>It was also pointed out that clear guidance would be needed from HSE and that the employers decision would be open to audit by enforcing authorities. It was also suggested that a reasonable safety factor should be built in.</p>	<p>To delegate to all employers the facility to average exposure over a week rather than a day subject to the requirements of regulation 6(4), in order to allow for occasional, unavoidable high exposures, e.g in emergency situations where exposure is normally low. The alternative of administering a system of centralised approval would be administratively costly and bureaucratic.</p> <p>To provide clear guidance on</p>

			<p>The TUC does not accept that individual employers should be allowed to decide whether to use the derogation, but if they were allowed to, this should be subject to clear rules and to consultation with safety representatives.</p> <p>Concerns were also expressed that it was not possible to produce evidence that such exposures would be safe as required in Reg 6(4)(b) and that therefore workers should not be exposed to additional danger</p>	<p>when and how the derogation may be used by employers to avoid misunderstanding and incorrect use.</p> <p>To make clear in guidance that employers will need to consult with their safety or employee representatives and to set out the rationale for their decision in their risk assessment.</p> <p>To review the current scientific evidence on risk from high exposures on a single day and to consider whether further research would be useful.</p>
--	--	--	---	--

Issue 6: Regulation 7 Health surveillance (Directive Article 8)

<p>Q15. Do you agree with the proposal that a tiered system of health surveillance for hand-arm vibration syndrome is appropriate and would be effective?</p>	<p align="center">44</p>	<p align="center">5</p>	<p>The majority supported the proposal because full health surveillance of employees where there is little or no risk would be costly, consume a scarce medical/nursing resource and be of no real benefit. However, a wide range of concerns was expressed about practicalities, including the following:</p> <ul style="list-style-type: none"> - make clear in guidance when health surveillance would be appropriate and what form it should take -provide better guidance for SMEs -make clear in guidance that safety representatives should be consulted about setting up health surveillance arrangements –oneTU believed it would not be appropriate for safety representatives to be directly involved in tier 1/2 screening - screening questionnaires only effective in conjunction with a worker education programme - it would be important to have those with symptoms under surveillance even where exposures were below the EAV -early identification of symptoms is paramount to avoid disability and long term unemployment -any employee exposed should be under surveillance -OH advice provision woefully inadequate in Britain -insufficient medical staff available by 2005 to provide health surveillance for all those at risk. Need 2 year implementation period. 	<p>To review and develop the draft guidance to ensure all the concerns raised are addressed.</p> <p>To provide concise, plain language guidance for employers, employees and safety representatives with separate, more detailed guidance for health professionals, including on selection and training of responsible persons to carry out tiers 1 and 2 screening.</p> <p>To continue working with the Faculty of Occupational Medicine to encourage health professionals to gain the relevant competence.</p> <p>To support programmes to expand provision of occupational health services which would include HAVS capabilities.</p>
---	--------------------------	-------------------------	--	--

			<ul style="list-style-type: none"> -programme must be overseen by competent professional -need guidance on level of competence for carrying out initial tier 1 and 2 administration - not fair to ask responsible employee to take on a role of identifying potentially disabling cases of HAVS -assumptions about symptoms should not be made by lay people – must involve OH professional; -standardised testing for symptoms is not robust enough to be conducted in a non-laboratory setting -the NHS does not have skills or equipment for testing - concerns about confidentiality if a non-health professional work colleague carried out tier 1 and 2 screening – and may lead to problems being concealed -need for confidentiality of screening questionnaires (Part 4 Data Protection Act) - pre-employment screening may conflict with disability discrimination law -concern that health surveillance could be used to get rid of workers with early symptoms – greater confidentiality should be written in 	
--	--	--	---	--

<p>Q16. Do you agree with the criteria outlined in paragraph 41 for when HAVS health surveillance should be undertaken?</p>	<p>42</p>	<p>6</p>	<p>Broad agreement but various suggestions made:</p> <ul style="list-style-type: none"> -need to clarify when health surveillance (HS) begins- draft guidance is ambiguous -the trigger for HS is the risk assessment - not solely exceeding the EAV -some Local Authority employees cleared at pre-employment screening but later picked up with HAVS problems even at exposures below EAV -need to carry out random sampling of employees exposed below the EAV for assurance – there is risk with such exposures -employees exposed below the EAV with pre-existing contra-indicated health conditions should also receive HS -HS should continue for diagnosed cases even with reduced exposure -the guidance should more explicitly discourage overreaction where risks are low -guidance needed on when to cease HS -Exit medicals should be given to establish health status when employee leaves - provide better guidance on what “occasional” means in terms of high exposures - best practice should be to move people off HAV work rather than put them under HS 	<p>To review the draft guidance to make sure it emphasises that there are risks of hand-arm vibration syndrome (HAVS) at exposures below the EAV, especially for those with certain HAVS symptoms and for those with certain other health conditions and that health surveillance should be introduced wherever there is likely to be risk.</p> <p>To consider other suggestions and incorporate them in guidance if appropriate.</p>
---	-----------	----------	---	---

<p>Q17. Do you agree that formal health surveillance is not appropriate for WBV?</p>	<p>48</p>	<p>5</p>	<p>There was general agreement that formal health surveillance was not appropriate and support for informal health monitoring. Many mentioned the lack of causal link between WBV and back pain that made health surveillance inappropriate.</p> <p>Some were concerned about assessing the risk without there being information on a dose-response relationship. Several supported pre-employment screening. There was a suggestion that SMEs might use informal oral questioning for health monitoring rather than written completion of a questionnaire.</p> <p>The TU viewpoint was that posture and manual handling should be included in the monitoring, and that monitoring should be mandatory.</p>	<p>To advise in guidance that formal health surveillance is not appropriate for WBV, but to recommend an informal voluntary system of health monitoring to pick up potential low-back problems. The guidance to cover postural and manual handling issues as well as WBV.</p> <p>It would not be appropriate to make informal monitoring covering manual handling and posture mandatory under the Vibration Regulations.</p>
<p>Q18. Do you agree with the proposal in the guidance that a voluntary system of health monitoring covering risks from manual handling and posture as well as WBV should be used where risks are high?</p>	<p>43</p>	<p>7</p>	<p>Most agreed with the voluntary approach proposed although a minority felt health monitoring should be mandatory. There was some support for a holistic guidance dealing with risks for lower back pain, including manual handling and postural/ergonomic factors and WBV. Some felt that it was important to consider non-work activities e.g. leisure pursuits, and sports activities which could cause lower back problems.</p> <p>Other issues raised related to confidentiality of personal health information and the need for professional occupational health advice.</p>	<p>To advocate in guidance that a voluntary health monitoring regime is recommended. To provide guidance on how a voluntary system might work, and when and how to obtain professional occupational health advice. To include in guidance information on manual handling and postural/ergonomics health monitoring as well as on WBV. To review the guidance to ensure that confidentiality issues are covered</p>

General comments

<p>Q19. Are there any general comments you would like to make about the Regulations or guidance?</p>	<p>Comments on this section were by far the most extensive and it would be difficult to cover them all here. However, the following is a broad summary of the kinds of issues raised:</p> <ul style="list-style-type: none"> - guidance needs to be clarified, widened, deepened, more examples provided, emphasis changed, indexed - various suggested changes to the draft guidance - amend regulations to make wording mirror other regs such as COSHH - there will be practical difficulties in assessment of exposure (trigger time) in the construction industry - include involvement of safety reps in all relevant sections of guidance - provide separate guidance for SMEs - provide support funds for SME vibration assessment - the Regulatory Impact Assessment (RIA) underestimates costs of a vibration assessment - more SMEs should have been consulted in preparing the RIA - provide aids for assessing vibration exposure - the health surveillance and training regulations should apply to the self-employed - concerns about the costs of Employers Liability Compulsory Insurance - concerns about vibration assessment and controls for older rail rolling stock and road vehicles which could exceed the ELV yet have a lifespan of 40 years - guidance should be in the form of an ACOP - regulation of WBV is unjustified by the scientific evidence and will impose large costs on industry for little, if any, benefit. 	<p>To carefully review and revise the draft guidance in the light of all the comments received. In particular to make clear in guidance that most employers will not need or be expected to measure or assess exposure in detail. For those employers who wish to do so a wide range of generic risk assessments information will be published on HSE's web site to assist them to do so simply and easily.</p> <p>The draft regulations have been amended in a number of places (see Annex C) to reflect, where possible, comments received, while incorporating fully the essential requirements of the Directive.</p> <p>The RIA (see Annex B) has also been revised in the light of comments received and some changes in the interpretation of the requirements of the draft Regulations</p>
--	---	--

Q20. How well do the CDs represent the different policy issues involved?	Very well or well	Not well or poorly	Comments	Recommendation
	61	11	<p>Most comments were favourable, indicating that the CDs were balanced with a pragmatic approach.</p> <p>Some felt they were difficult to navigate and one asked for more information on the changes to the vibration measurement regime.</p>	<p>To consider whether future CDs need an opening section which explains how to navigate the document.</p> <p>Where there are changes, such as measurement regimes from previous practice, to highlight them.</p>
Q21. Was there anything you particularly liked or disliked about the consultation?	<p>Some examples of comments were:</p> <ul style="list-style-type: none"> -The consultation period (four and a half months) was sufficient. -The CDs were comprehensive - the references for further information were good -the questionnaires did not cross references the CDs very well - the CDs were too long and repetitive -the RIA grossly underestimated costs 			<p>The Commission to consider whether future consultation periods should be increased from three months (the current minimum) to four months.</p> <p>In future, to try to improve cross-referencing of the questionnaire to the CD.</p> <p>To try to avoid repetition in future CDs where possible.</p> <p>The RIAs have been revised in light of comments received and recommendations made in this annex.</p>