MATS Group response to HSE consultation on the UK guidance and regulations to implement the EU EMF Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from electromagnetic fields

The HSE recently held a public consultation relating to the implementation of Directive 2013/35/EU on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields).
The consultation covered three documents:

- The draft UK Regulation document which implements the EMF directive in the UK.
- The draft UK guidance which provides guidance to UK businesses on the steps they need to take to ensure compliance with the new regulations.
- UK draft impact assessment which aims to quantify the cost to UK businesses arising as a result of the introduction of the new regulations. Note that these cost estimates assume that businesses are already complying fully with the duties required under existing health and safety legislation.

The consultation invited organisations to respond to a number of questions. The MATS Group responded to four questions. These are listed below with the MATS Group responses.

1 Do you have any comments on the draft 'The Control of Electromagnetic Fields at Work Regulations 2016' at Annex (ii)?

Employees at particular Risk: In the Directive it is clear that the onus is on the worker to declare the use of implanted devices etc or to inform the employer of their pregnancy. This requirement is missing from the draft Regs.
We suggest that the definition in the text more closely follows the text in the Directive (Article 5(4)), that is:

"*employees at particular risk" includes but is not limited to employees who have declared the use of active or passive implanted medical devices and pregnant employees who have informed their employer of their condition*"

2 Does the guidance at Annex (i) make it clear what your responsibilities as an employer are under 'The Control of Electromagnetic Fields at Work Regulations 2016'?

The section "Assessing the exposure and risk" appears to discuss only risk assessment. Clarification on exposure assessment would be useful. At present, there appears to be only a single sentence relating to exposure assessment, "*To be able to manage the risks, you will need to determine the potential level of EMFs to which your workers may be exposed*". Even then, this could be interpreted as a sentence about risk management. (See also response to Q3).

Moreover, although the text in the guidance uses phrases such as, "*risk arising from exposure*", the phrase "*risk of exposure*" is also used several times (pp 7, 10). This is confusing.

Finally, the regs and guidance give the impression that separate documents are required for the risk and exposure assessments; however it is our understanding that the HSE is comfortable with employers producing a single document combining both assessments if that is their wish. This is not clear from the draft.

3 Is there any additional information that you would like to see included in the guidance at Annex (i)?

Workers at particular risk:

Information is needed on how to perform risk assessments for employees at particular risk with passive implants or those with the items in the final column of table 2 – items that may contain ferromagnetic materials.

The guidance includes a long list of passive devices, some of which, such as dental fillings, are commonplace. Similarly with tattoos – it is likely employees will not be able to tell us what kind of ink was used. There is no information on how to carry out the risk assessment for people with these. Also, the table is not clear with the interpretation for items in the final column

It would be helpful to provide additional information on how to carry out the risk assessments for common items such as dental fillings, IUDs, tattoos (where the employee does not know the ink type used). In particular, levels/frequency ranges where these are likely to be / not to be a problem would be useful. In addition, more general information on risk assessment for passive devices would be welcome. Whilst manufacturers might have definitive answers for questions relating to the EMC immunity of active devices, it is anticipated that the answers for passive devices are likely to be less well informed.

Health surveillance:

Information is needed on what form any required health surveillance should take. We note the HSE website referenced in the draft guidance includes guidance on health surveillance for many specific hazards but nothing on EMFs. We put forward the MATS document GN-004 as guidance that could be adopted by HSE/PHE for use in such circumstances.

http://www.matsgroup.info/documents/GN_004-Over-exposure_to_RF_Radiation-Issue_2-1.pdf

4 Do you agree or disagree with the analysis in the impact assessment at Annex (iii)?

The times suggested for familiarisation [ie the time estimated for someone to read and understand the regulations and guidance so that they can put compliance measures in place] are insufficient.

We suggest more realistic times would be:

- Businesses where no action is required: 45 mins (not 5 mins)
- Businesses where EMFs are a significant risk: 2 hours (not 30 mins)
- Businesses where EMFs are not a significant risk: 1 day (not 1 hour)

The consultation closed on 3 December 2015 but the consultation document can be found at http://consultations.hse.gov.uk/consult.ti/cd276/consultationHome/

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