

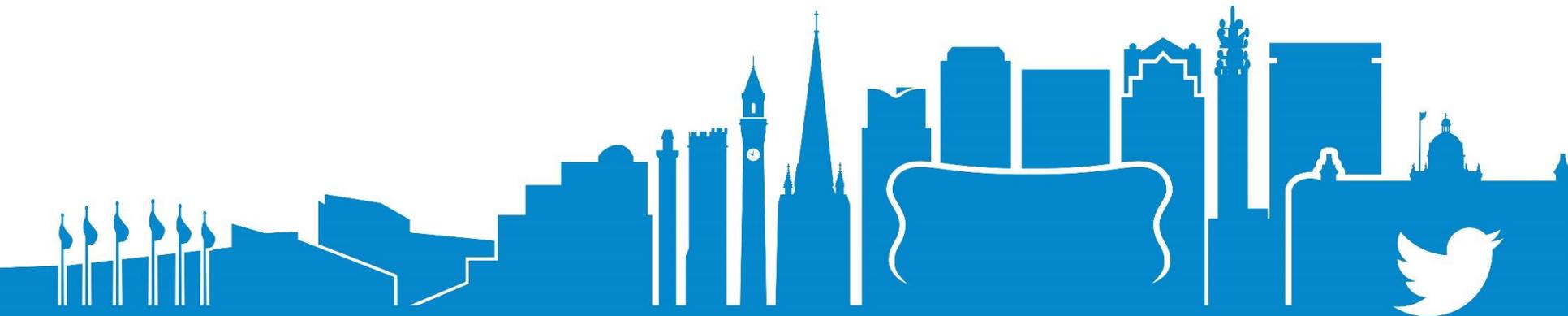
Workshop 1a:

What does the recent HSE guidance on legionella mean for landlords?

Speaker: Steve Mount (Immerse Training)

Chaired by: Declan Hickey

Room: York Room



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Steve Mount Associates Ltd.

Legionella Management

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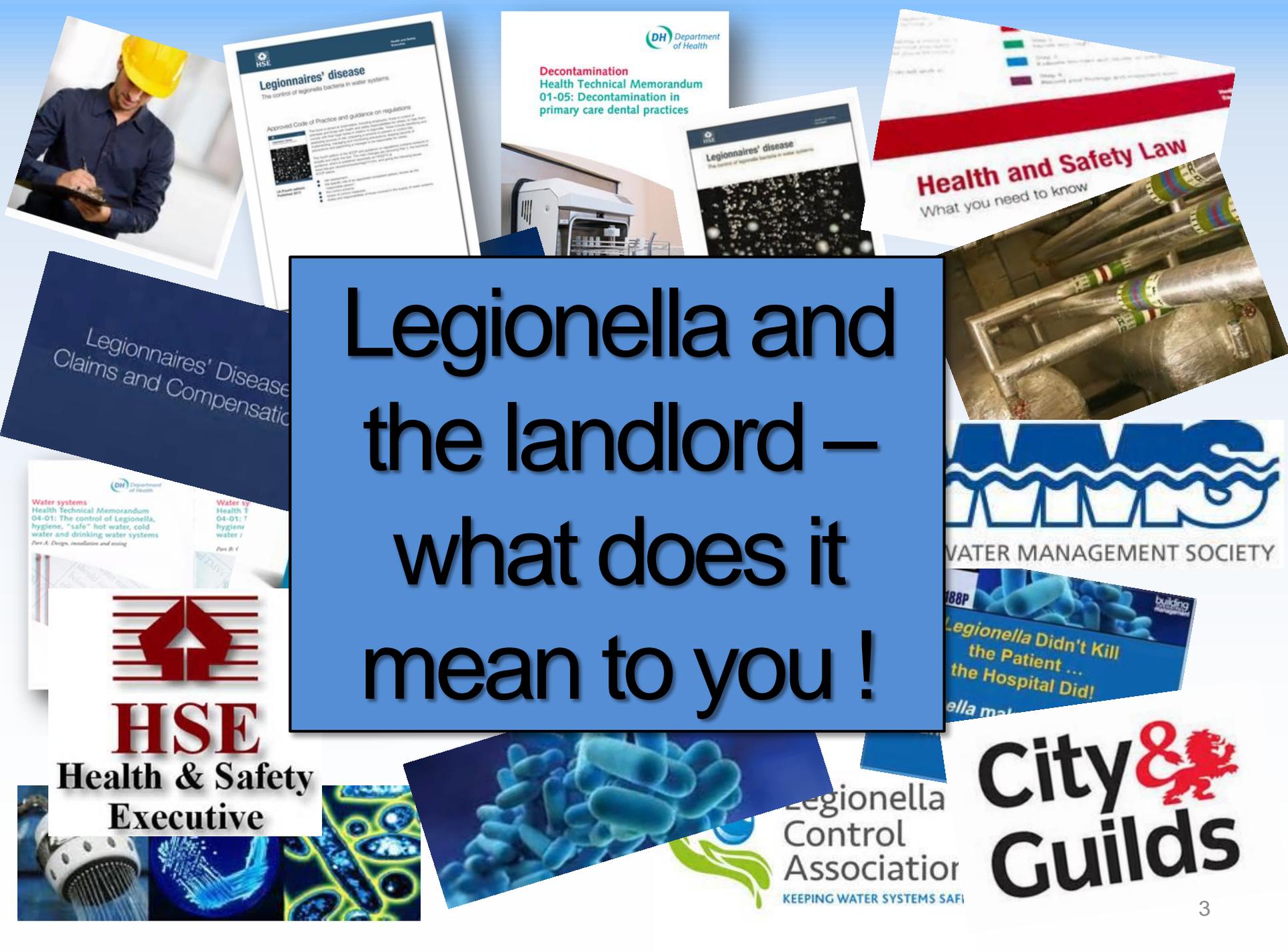
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Legionella and the landlord – what does it mean to you!

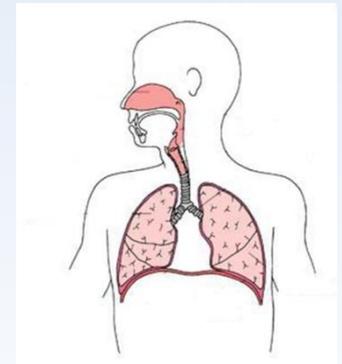


What is legionnaires' disease?

Legionnaires' disease is the name given to the pneumonia-like illness caused by legionella bacteria. It is a potentially fatal form of pneumonia and everyone is susceptible to infection.

However, some people are at higher risk, including:

- 👤 people over 45 years of age
- 👤 smokers and heavy drinkers
- 👤 people suffering from chronic respiratory or kidney disease
- 👤 diabetics
- 👤 anyone with an impaired immune system.



Legionella bacteria originate from the soil and are common in nature. They can be found in low numbers in rivers, lakes & reservoirs. They can enter engineered water systems from the mains supply.

The primary route of infection is the inhalation of contaminated water aerosols into the lungs such as from showers, taps, etc.

Legionella kills people !

In 2008, **5,960** cases of Legionnaires' disease were reported from 34 European countries.

Between 2012–2014:

- 🌐 the total number of confirmed cases in the UK was **938**.
- 🌐 the total number of reported deaths in the UK was **89**.

In 2015:

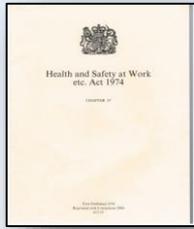
- 🌐 **485** cases were reported in the UK.

As we speak an outbreak in the Bronx (USA) has recently killed 12 with over 115 hospitalised.

Mismanaged and poorly maintained water systems can rapidly become colonised and become the source of major outbreaks of Legionnaires' disease.

Law and Legionella— statutory

- There are 2 main Acts of Parliament that apply –
HSWA 1974 and **COSHH 2002**.



These enable secondary legislation and guidance to deal with specific requirements. In relation to Legionella these are as follows:

- The Management of Health and Safety at Work Regulations 1999.
- Health and Social Care Act 2008
- The Approved Code of Practice and guidance: Legionnaire's Disease and the Control of Legionella Bacteria in Water Systems - **ACoP (L8)**



Failure to comply with the law can result in criminal prosecution including fines of up to £20,000 per breach and up to 2 years imprisonment

Landlords – the law

 **Landlord** - anyone who rents out a property they own under a lease, licence or contract that is shorter than seven years including:

- local authorities
- housing associations
- private sector landlords
- housing co-operatives
- hostels

 **Law** – As a landlord you have legal responsibilities to ensure:

- the health and safety of your tenants.
- by keeping the property safe and free from health hazards.



Failure to comply with the law can result in criminal prosecution including fines of up to £20,000 per breach and up to 2 years imprisonment

Landlords – the law

Health and Safety at Work Act (HSWA)

- **Section 3(2), HSWA** - makes provision for relevant health and safety legislation to apply to landlords and ensure a duty of care is shown to their tenants' with regard to their health and safety.

– "It shall be the duty.....**to conduct his undertaking** in such a way as to ensure, so far as is reasonably practicable, **that he and other persons** (not being his employees) who may be affected...**are not thereby exposed to risks to their health or safety.**"



Legislative review – statutory/non-statutory

🌐 2001 - Legionella L8 ACOP (3rd edition)

– details the requirement for landlords of both domestic and business premises to assess the risks from exposure to Legionella to their tenants.

🌐 2013 - Legionella L8 ACOP (4th edition)

– **NO** change to legislation.

🌐 2014 Legionnaires' disease Part 2: The control of legionella bacteria in hot and cold water systems (HSG 274) – **guidance**.



New Section: “Residential accommodation: Landlords and shared premises”. This new section gives guidance on how to risk assess and control both domestic and commercial tenanted properties. It is essential that property owners, landlords and tenants understand this new section. <http://www.hse.gov.uk/pubns/books/hsg274.htm>

Law and Legionella— statutory

- Health and safety laws state that anyone who owns or who are in control of a premises are required to have a Legionella risk assessment carried out by a **competent** person.
- This **applies to any organisation in the UK** having 5 or more people working or visiting the premises.
 - Healthcare – GP's, dentists, care homes, hospitals, etc
 - Landlords (residential and commercial)**
 - Private and public companies
 - Charities
- The Health and Safety Executive (HSE) and Care Quality Commission (CQC) have legal powers to enforce the regulations.

Wallasey care home ordered to pay £40k over pneumonia risk

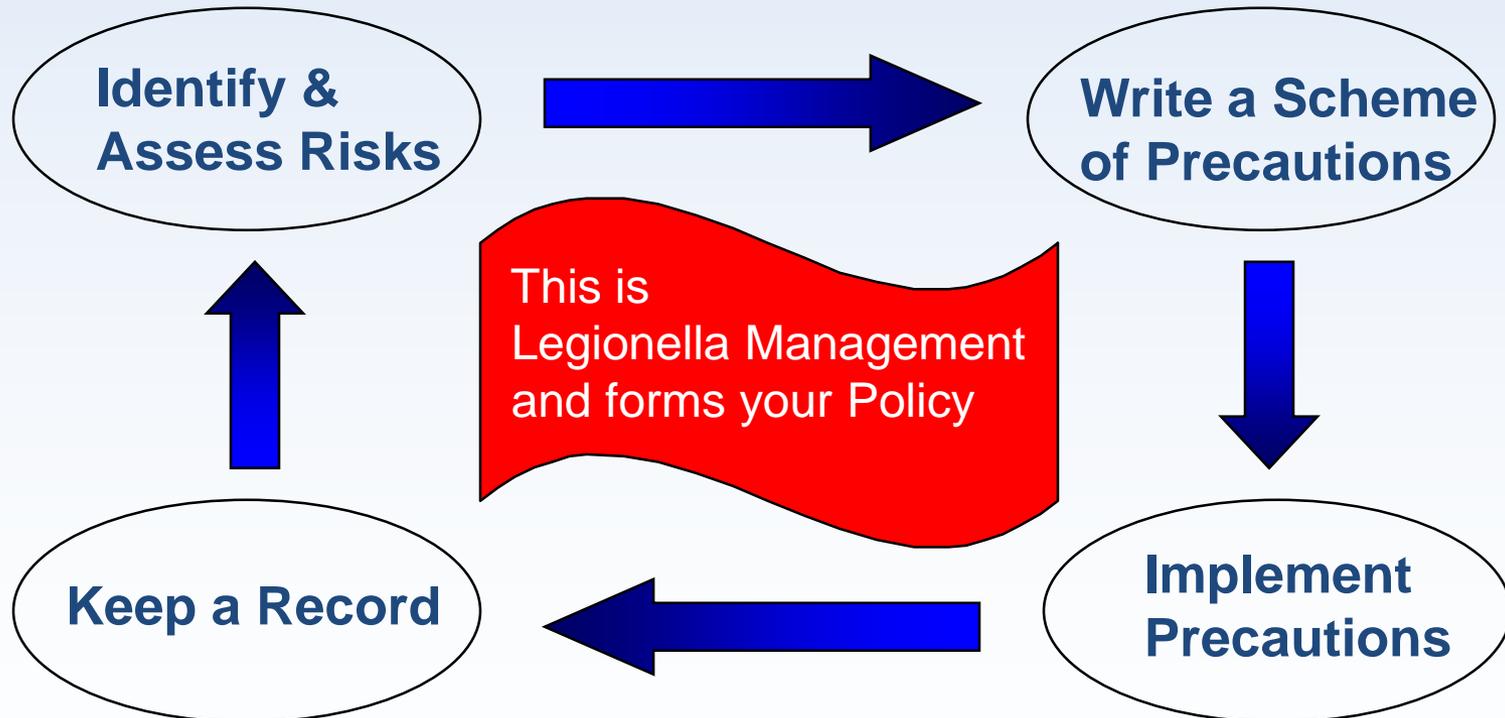
Date: 23 August 2013

A private care home in Wallasey has been ordered to pay £40,000 in fines and costs after it failed to manage the risk of elderly residents catching a potentially fatal form of pneumonia.

Mother Redcaps Care Home Ltd, of Greenside Gardens in Leyland, was fined £6,525 and ordered to pay £33,475 in costs after pleading guilty to a breach of the Health and Safety at Work etc Act 1974.

What you MUST do - Risk management

The regulations ask us to perform four key tasks, if completed correctly the risk from Legionella should be minimised. After appointing someone to be **managerially responsible**, you must;



Risk assessments



Risk assessments



Steve Mount
Associates Ltd



Risk assessments



Risk assessments



Simples !

What you MUST do

🌐 Landlords of domestic rental properties have:

- a duty to assess the risk from exposure to Legionella
- a duty ensure the health and safety of their tenants



- 🌐 Use practical and proportionate application of health and safety law.
- 🌐 Establish clarity around landlord duties and responsibilities.

Domestic rental properties

🌐 Generally known as a '**Lower**' risk situation.

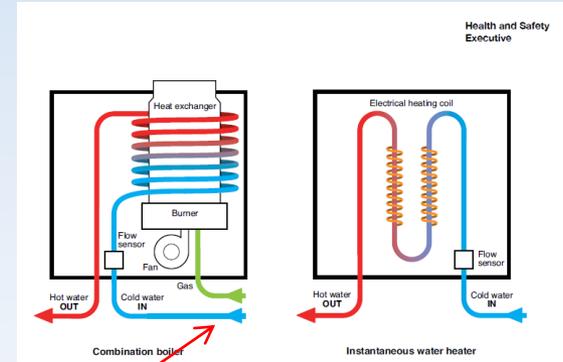
🌐 L8 ACOP - smaller hot and cold water systems:

– daily water usage is inevitable and sufficient to turn over the entire system

– cold water is directly from a wholesome mains supply (no stored water tanks)

– hot water is fed from instantaneous heaters or low volume water heaters

– only outlets are toilets and wash hand basins.

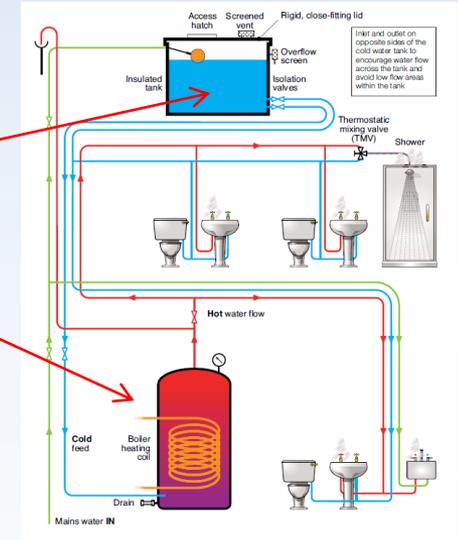


Domestic rental properties

🏠 The more complex the system, generally a **'Higher'** risk situation

🏠 L8 ACOP – smaller hot and cold water systems:

- cold water is stored in a cold water tank – more risks
- hot water is heated in a hot water cylinder – more risks
- the water only flows when it is being used and is usually allowed to become cool in the pipes after use
- outlets served are toilets, wash hand basins, sinks, baths and showers.



Domestic rental properties – risk assessment

 Simple assessment of the risk may show:

- there are minimal risks
- simple measures are needed to manage the risks
- you need to review the assessment periodically in case anything changes in the system.



Domestic rental properties – controlling the risk

- 🌐 Keep the risk low.
- 🌐 Put in place simple, proportionate and appropriate control measures.
- 🌐 Temperature - reliable way to minimise risk of exposure to Legionella bacteria.

Keep the cold water cold - **keep the hot water hot**



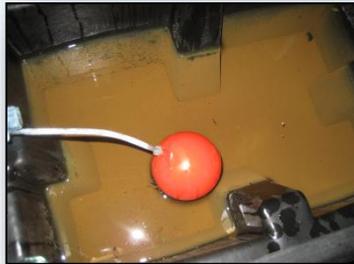
and keep it moving



Domestic rental properties – controlling the risk

🌐 Other simple control measures include:

- flushing out the system prior to letting the property
- avoiding debris getting into the system (eg ensure cold water tanks, where fitted, have a tight fitting lid) and keep the tanks clean



- make sure any redundant pipework identified is removed
- setting control parameters (eg set temperature of hot water cylinder (calorifier) to ensure water is stored at 60°C).

Tenants – what they should know

🌐 Advise tenants of any control measures put in place that should be maintained eg:

– not to adjust the temperature setting of the water heater



– regularly clean showerheads

– inform the landlord if the hot water is not heating properly or there are any other problems with the system so that appropriate action can be taken.



Additional actions for void properties

- 🌐 It is important that water is not allowed to stagnate within the water system.
- 🌐 Careful management of properties left vacant for extended periods (eg voids, student accommodation left empty over the summer vacation).
- 🌐 General principles:
 - all outlets should be used at least once a week to maintain a degree of water flow and minimise the chances of stagnation
 - during non-occupancy, implement a suitable flushing regime or other measures such as draining the system if it is to remain vacant for long periods.



Review the assessment

- 🌐 The law **does not** prescribe the risk assessment to be reviewed on an annual/biennial basis.
- 🌐 Review the assessment periodically in case anything changes eg changes in the water system, changes to use or the control measures not being effective



Who can assess the risk?

Most landlords are:

- able to understand the set of risks of running a hot and cold water system
- can undertake a simple assessment
- can, in most cases, take simple and straightforward actions so compliance does not need to be burdensome or costly
- can implement cheap, simple and effective physical control measures.

BUT.....

- if they do not feel competent....
- or inclined to do so....
- have larger portfolio of properties where risk factors increase...

they can and should arrange for someone who is to do it on their behalf. Normally a contractor.



Contractor competence

If you use contractors, you have a responsibility to make sure they are competent.

Competence can be described as the combination of **training, skills, experience and knowledge that a person has** and their ability to apply them to perform a task safely.

The simple truth is that **anyone** carrying out a Legionellosis risk assessment must be confident they could provide evidence to a court that they are competent to carry out the assessment.

In many cases there will be Legionellosis risk assessments being carried out across the UK that are simply not worth the paper they are written on and both the risk assessor and their employer can face charges under the Health and Safety at Work etc. Act 1974, resulting in a fine and / or up to 2 years imprisonment.

Contractor competence

Examples of questions you could ask potential contractors include:

- 🌐 Who will be responsible, how will the work be supervised?
- 🌐 Will you be using subcontractors and if so how will you check they are competent?
- 🌐 Can you provide existing risk assessments done for similar jobs?
- 🌐 What qualifications, skills and experience do your staff have in this type of work? – **get evidence !**
- 🌐 What health and safety information and training do you provide for your workers?
- 🌐 Do you have Employers' Liability Compulsory Insurance?
- 🌐 Are you members of a trade association or professional body?



Contractor competence



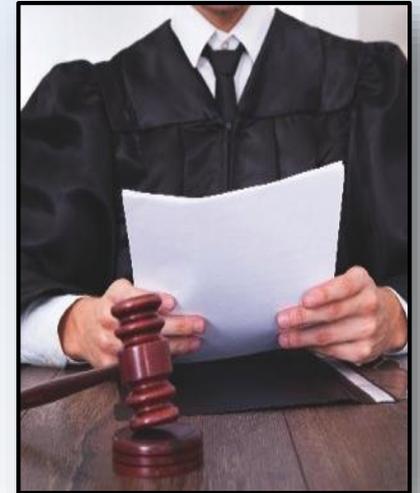
If your appointed contractor fails, on your behalf to control legionella bacteria, causing a reasonably foreseeable risk of exposure to staff, or the general public then you, as the duty holder, may be held responsible under (HSA) and (COSHH).

The responsibility cannot be passed on by means of a contract.

Contractor competence

What to consider

- 🌐 The responsibility for the management of the risk always belongs to site.
- 🌐 43% of HSE prosecutions result from poor risk assessment.
- 🌐 50% of HSE prosecutions result from poor scheme of control.
- 🌐 BS 8580 recommends the use of an independent assessor.
- 🌐 Make sure individuals working for contractors can do the work you want to the standard that you require.
e.g. have they got the experience and qualifications,
training, membership of professional organisations or
recognised trade body ?



Failure to comply with the law can result in criminal prosecution including fines of up to £20,000 per breach and up to 2 years imprisonment

Your competence

What to consider

🌐 are your staff including Responsible Person and deputy RP trained ?

EXTRACTS FROM THE HEALTH AND SAFETY AT WORK etc ACT 1974
General Duties of Employers to Their Employees 2

- (1) It shall be the duty of every employer as far as is reasonable practicable, to secure health, safety and welfare at work of all his employees.
- c) The provision of such information, instruction training and supervision as is necessary to ensure so far as is reasonably practicable, the health and safety at work of his employees.

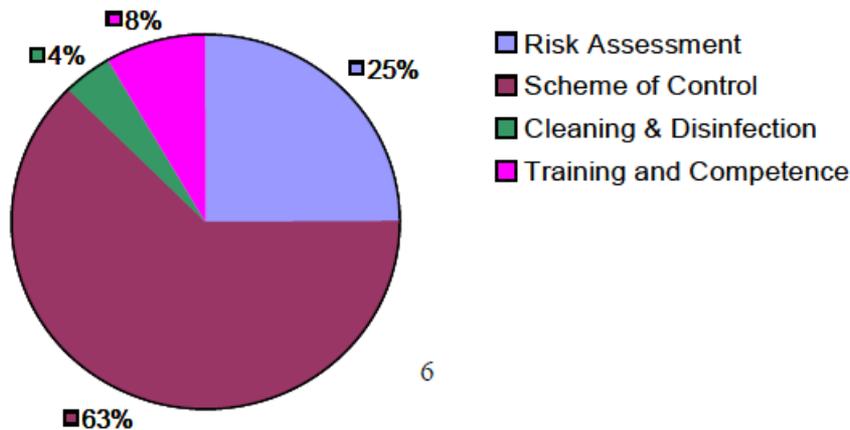
🌐 Provide instruction and training to keep employees safe



Outbreaks / cases

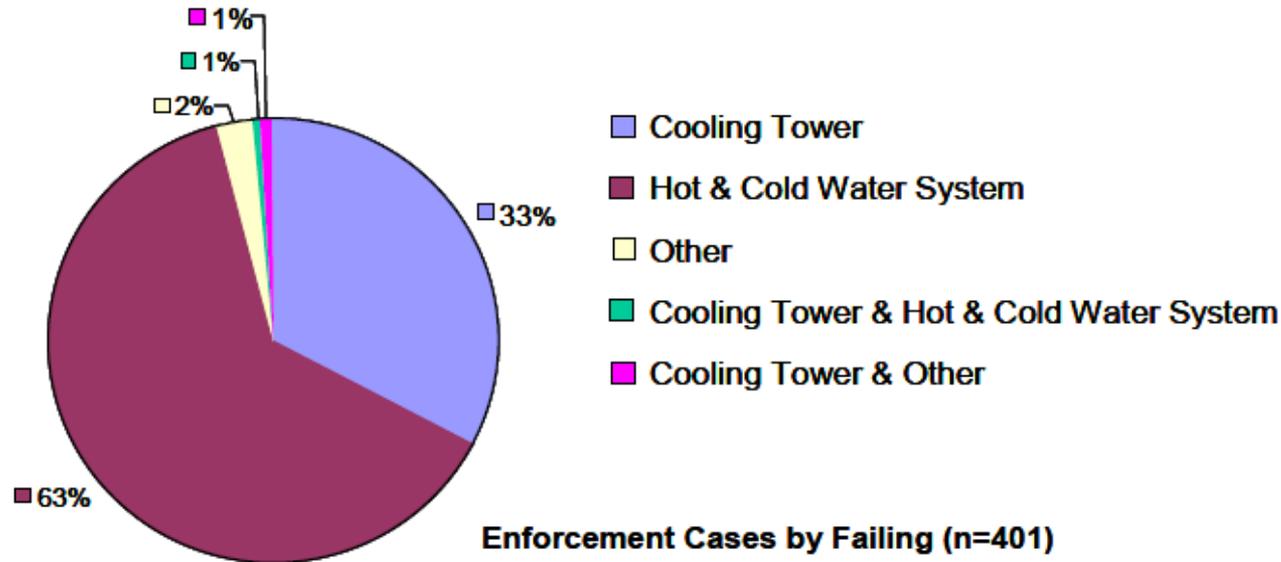
Health and Safety Laboratory (HSL), an agency of the HSE was tasked to gather data on outbreaks of Legionnaires' disease in Great Britain. This was done for the 10 year period to August 2011.

Outbreaks by Failing (n = 24 from 17 Outbreaks)

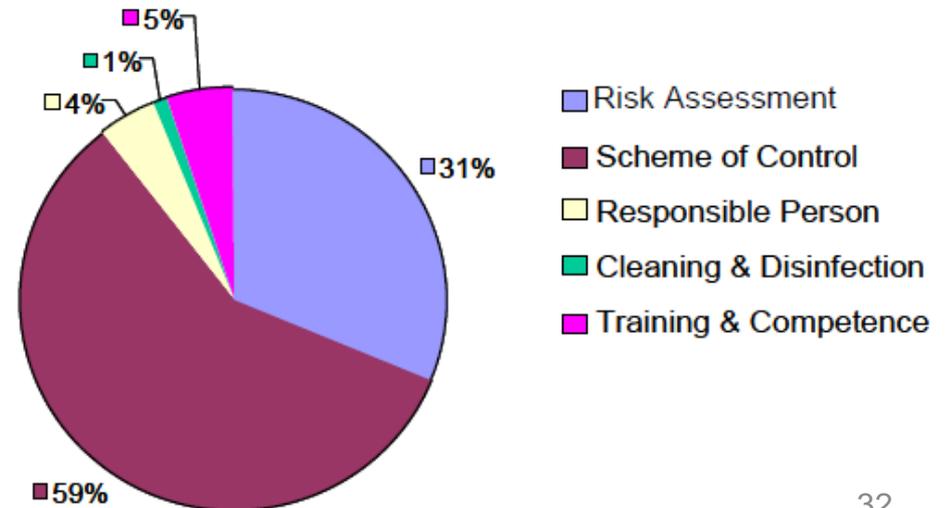


Outbreaks / cases

Enforcement by System Type (n=409)



Enforcement Cases by Failing (n=401)



So how does this affect you ?

- 1) Are domestic properties proactively inspected?

HSE and Local Authority inspectors do not proactively inspect domestic premises or ask for evidence that landlords have undertaken a risk assessment.

However, if a tenant were to contract Legionnaires' disease from the water system in their home, the landlord may be liable to prosecution under HSWA, and would have to **demonstrate to a court that they had fulfilled their legal duty**, so it is important that they assess and control the risks (see <http://www.hse.gov.uk/press/2010/coi-e-05.htm>).



So how does this affect you ?

So if a tenant is diagnosed with Legionnaires' which they may have picked up from travel/community what happens ?

- This is a notifiable disease and will invoke an investigation by HSE and others.

Risk assessments, management procedures, risk monitoring results and records will be audited.

The HSE come in to inspect and find issues such as:

- No risk assessments in place
- Inadequate risk monitoring
- Poor quality etc

- If there is a major failing, the HSE will take action.

This can result in an improvement/prohibition/enforcement notice.

- If there is a major failing, the HSE will take action and under Fee For Intervention (FFI) this will cost £124 per hour and may take weeks/months !



Legionella myths ?

Water lab testing or sampling for Legionella is not usually required for domestic hot and cold water systems.

For landlords, in a domestic setting:
Health and safety law does **NOT** require landlords to:

- 🕒 obtain a certificate
- 🕒 produce a certificate
- 🕒 nor does HSE recognise a 'Legionella test certificate'



Outbreaks / cases

Prosecution of landlord highlights dangers of Legionnaires' disease 22 Oct 2010 - Article from Forbes Solicitors - Google Chrome

Legionnaires' disease case: X | Prosecution of landlord h: X

https://www.forbessolicitors.co.uk/news/display/756/prosecution-of-landlord-highlights-dangers-of-legionnaires-diseasehttps://uk-mg42.m...

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Prosecution of landlord highlights dangers of Legionnaires' disease

Article

22 October, 2010

It has recently been reported in the publication Inside Housing that a housing association has been fined £12,000 following an outbreak of Legionnaires' disease at a sheltered housing scheme. This led to one resident being hospitalised with the illness. The housing association pleaded guilty to breaching the [Health and Safety at Work etc. Act 1974](#).

Basildon Magistrates' Court heard that Legionella experts had been contracted to carry out an investigation at the scheme in 2006. A number of problems were said to have been found with the scheme's water system which should have been addressed immediately. However, the risk assessment was not received by the association's staff until the middle of 2007. It was conceded by the association that it was their duty to ensure that they received this document and to check whether any urgent action needed to be taken by them.

This incident draws attention to the need for all social landlords to be aware of the dangers posed by Legionnaires' disease and the steps that can be taken to prevent harm being caused to tenants.

What is Legionnaires' disease?

Legionnaires' disease is a type of pneumonia which can be fatal. Those most susceptible to the disease are the elderly and individuals with respiratory problems. It is caused by the Legionella bacteria which can be found in water systems such as those used in houses.

The disease is transferred to individuals through water droplets from the infected systems being inhaled by the individual. This risk is increased if there is a suitable temperature for the bacteria to grow (between 20-45 degrees Celsius), a source of nutrients (such as rust, scale or other organic matter) and a way in which droplets of water can be spread (e.g. through a tap).

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“It has recently been reported in the publication Inside Housing that a housing association has been fined £12,000 following an outbreak of Legionnaires' disease at a sheltered housing scheme. “

Outbreaks / cases

Legionnaires' disease case in Radstock | Somerset Guardian - Google Chrome
www.somersetguardian.co.uk/Legionnaires-8217-disease-case-Radstock/story-27852911-detail/story.html

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Legionnaires' disease case in Radstock

By SG Snorbury | Posted: September 23, 2015

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Pines Court, Radstock

Comments (0)

“Concerns have been raised by residents living in flats in Radstock after a man in his nineties was left hospitalised after contracting a deadly water-borne disease that is spread by contaminated water systems.”

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Outbreaks / cases

**Corby hotel pool closed after
legionnaires' outbreak**



**The pool and spa at
Corby's Holiday Inn
have been closed
for an investigation
into cases of
legionnaires'
disease.**

Outbreaks / cases

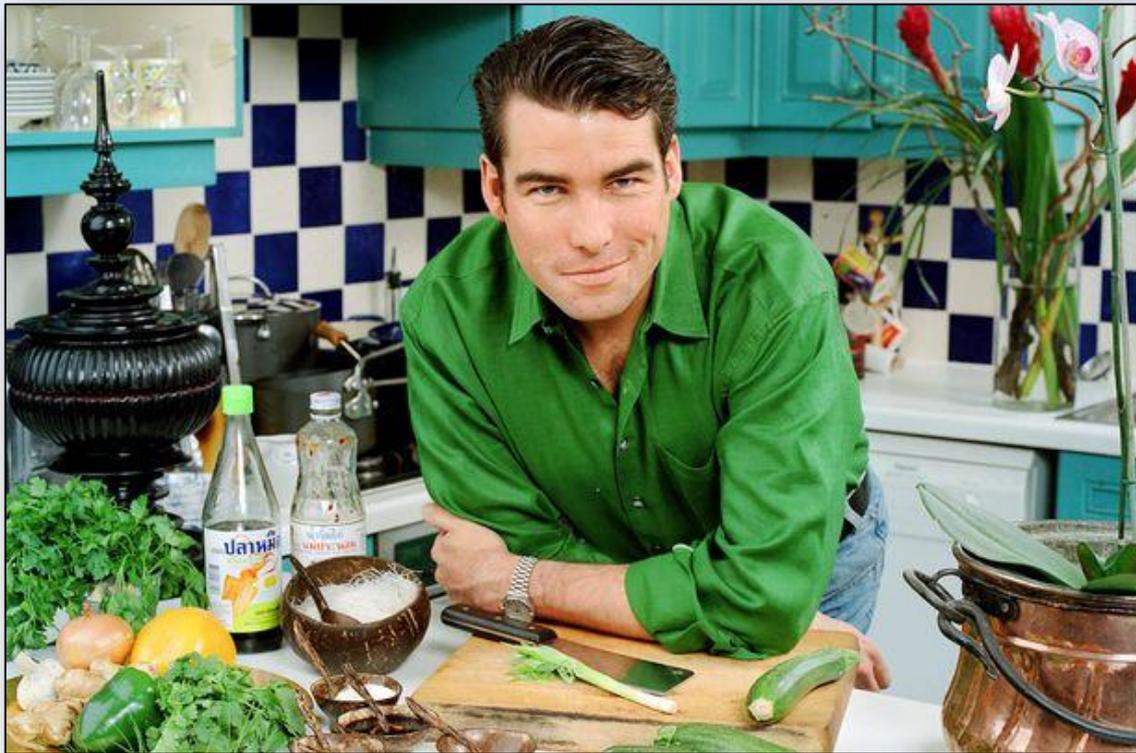
Legionnaires' deaths hotel fined



A four-star hotel near Cardiff has been fined £40,000 after two guests died from Legionnaires' disease.

Outbreaks / cases

Ready Steady Cook star Ross Burden 'died from Legionnaires' disease because of infected water supply'



And finally - no one wants headlines like these !

Wallasey care home ordered to pay £40k over pneumonia

Date: 23 Aug
A private care home ordered to pay £40k over pneumonia it failed to manage catching a pneumonia

Mother Redwood Gardens in Liverpool ordered to pay £40k guilty to a breach of the Work etc Act

Langford Medical Practice rated inadequate on health and safety
© 14 May 2015 Oxford

Langford Medical Practice in Bicester, Oxfordshire has been rated inadequate on health and safety a risk of a Legionella outbreak.

of the water-borne bacteria due to plumbing faults was one of the Langford Medical Practice in Bicester.

as "disappointed" with the rating by the Care Quality

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Whitts: My new licence to thrill
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HOLIDAY FROM HELL AS BUG 'KILLS' GRAN

Woman Dies After Contracting Legionnaires' Disease From Dentist's Office
Feb. 17, 2012
by KIM CAROLLO via GOOD MORNING AMERICA

An 82-year-old Italian woman died after she contracted Legionnaires' disease from the water in her dentist's office.

NEWS
Hospital bugs kill more than cars
By ANDREW NICOLL Scottish Political Reporter
Published: Today
ADD YOUR COMMENTS
SCOTLAND'S filthy hospitals killed more people last year than the nation's roads.
Figures released yesterday show there were 248 deaths from C.diff infections, while MRSA bugs claimed another 48 lives.
The total of 296 compares with 272 deaths on Scotland's roads. Hospital bugs were also a contributory factor in another 683 deaths. Labour's Jackie Baillie said: "It is frightening to think it is more dangerous to be in hospital than on the roads."
296 ... killed by bugs in hospital

Outbreak of Legionnaires' disease is confirmed

Steve Mount Associates Ltd provides:

-  **Independent Legionella risk assessment and consultancy**
-  **Legionella training**
-  **Water sampling and analysis**
-  **Audit of control measures and records**

to a wide variety of clients including landlords, GP's, NHS primary care trusts and facilities management organisations.

Steve Mount Associates Ltd.

Legionella Management

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