

Obligations Legionella-your obligations under the legislation

Statutory Dutyholder - Obligations

Section one of the LCA's 9 service provider commitments requires that we ensure our clients are made aware of their legal obligations with regard to *Legionella* legislation. The following briefly describes the obligations of a building operator or owner.

A Health and Safety Executive (HSE) leaflet briefly defining your *Legionella* obligations is downloadable from the HSE website and we strongly recommend you take the time to read this leaflet as a starting point.

Legionnaires' disease - A brief guide for dutyholders - <http://www.hse.gov.uk/pubns/indg458.pdf>

The Health and Safety at Work etc. Act 1974, Sections 2, 3, 4 and 6 are defined within ACoP L8 as applicable to legionella control. The first 2 sections cover the primary requirements for most clients: -

(2) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(3) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

The Management of Health and Safety at Work Regulations 1999 (MHSWR)

These regulations provide a broad framework for controlling health and safety at work. As well as requiring risk assessments, they also require employers to have access to competent help in applying the provisions of health and safety law; to establish procedures to be followed by any worker if situations presenting serious and imminent danger were to arise; and for co-operation and co-ordination where two or more employers or self-employed persons share a workplace.

The Control of Substances Hazardous to Health Regulations 2002, regulations 6, 7, 8, 9 and 12 are particularly relevant to Legionella control.

Regulation 6, Assessment of the risk to health created by work involving substances hazardous to health, is perhaps the most relevant.

(1) An employer shall not carry out any work which is liable to expose any employees to any substance hazardous to health unless he has –

(a) made a suitable and sufficient assessment of the risk created by that work to the health of those employees and of the steps that need to be taken to meet the requirements of these Regulations; and

(b) implemented the steps referred to in sub-paragraph (a).

Legionella bacteria are classified as substances hazardous to health and therefore a *Legionella* risk assessment can be considered a mandatory requirement in all workplace buildings with water systems.

Specific guidance with regard to the control of legionella bacteria is supplied in

Legionnaires' disease - The control of legionella bacteria in water systems.

Approved Code of Practice and guidance on regulations L8.

Legionnaires' disease - Part 2: The control of legionella bacteria in hot and cold water systems (HSG274).

Legionnaires' disease - Part 3: The control of legionella bacteria in other risk systems (HSG274).

The Control of Legionella and other infectious agents in spa-pool systems (HSG 282)

Downloadable from the HSE website - <http://www.hse.gov.uk/>

The Legionnaires' disease - The control of legionella bacteria in water systems. Approved Code of Practice and guidance on regulations L8 states. To comply with their legal duties dutyholders should:

- a) Identify and assess sources of risk
- b) If appropriate prepare a written scheme for preventing or controlling the risk
- c) Implement, manage and monitor precautions
- d) Keep records of the precautions
- e) Appoint a competent person to help take the measures needed to comply with the law

Healthcare regulations:

Health and Social Care Act 2012

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

Care Quality Commission (Registration) Regulations 2009

Healthcare guidance:

Health Technical Memorandum 04-01: Safe water in healthcare premises

Health Technical Memorandum 01-05: Decontamination in primary care dental practices

The Health and Social Care Act 2008 - Code of Practice on the prevention and control of infections and related guidance

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HTM 04-01.

This document from the department of health gives specific guidance for healthcare for control of Legionella and other waterborne pathogens. Part A gives guidance on design, build and commissioning. Part B gives guidance on operational management. Part C gives guidance on control of pseudomonas aeruginosa in augmented care settings. Supplement D08 gives guidance on thermostatic mixing valves in healthcare settings. All parts are available as free PDF downloads.

<https://www.gov.uk/government/publications/hot-and-cold-water-supply-storage-and-distribution-systems-for-healthcare-premises>.

HTM 01-05.

This document from the department of health gives specific guidance for decontamination in primary care dental practices. Available a PDF download.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/170689/HTM_01-05_2013.pdf

The Health and Social Care Act 2008 - Code of Practice on the prevention and control of infections and related guidance.

This document from the department of health gives specific guidance for health and social care. Available a PDF download.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/449049/Code_of_practice_280715_acc.pdf

These documents can be used as guidance on the tasks and responsibilities that are applicable to the water systems on your site.

We confirm that we have advised you of your obligations under Health and Safety legislation regarding Legionella control specifically: The Health and Safety at Work etc Act 1974, The Control of Substances Hazardous to Health regulations 2002 as amended, The Management of Health and Safety at Work Regulations 1999 (amended 2006), and the Health and Safety Executive's Approved Code of Practice and guidance on regulations the control of legionella bacteria in water systems - L8.

Namely have in place: A legionella risk assessment, a written scheme of control, implement the control scheme, maintain records of the works and appoint a legionella responsible person.

We maintain records of all our activities associated with your site(s) for a 5 year period. These are available to you for a 5 year period after completion of the works at your site(s).

A copy of the Legionella Control Association's (LCA) Code of Conduct, evidence of our LCA registration and further details of the Law in respect of legionella control is available at www.legionellacontrol.org.uk

Our LCA Registration covers the legionella control services quoted for.

Your primary contact for all matters is the quote signatory, the secondary is our offices. All contact details are as per the quotation.

Records:

Whilst we are offering the services detailed in this quotation, the ultimate responsibility for managing legionella risks lies with the you. This includes the requirement for maintaining all records for the legionella control activities – as advised in ACoP L8 - on the system in a central location, ideally a logbook. You are responsible for maintaining the records, including any we issue to you as part of our works: legionella risk assessment - These records should be retained throughout the period they are current and for at least two years afterwards. Retain records of any monitoring inspection, test or check carried out, and the dates, for at least five years.

For the specific legionella control services quoted please review the below:

Legionella Risk Assessment Service

It is the responsibility of the duty holder to:

1. Ensure there is a Legionella risk assessment record that includes all systems where water is stored/used in any premises controlled by the duty holder (COSHH Regulations), and that it is reviewed regularly to ensure it is valid and reassessed when required (ACoP L8 paragraphs 32 & 47).
2. Clearly define the scope of any required Legionella risk assessment.
3. Make reasonable enquiries of proof of competence of the Legionella risk assessor.
4. Schematic diagrams and asset registers should be available to inform and help the risk assessor.
5. The findings of the legionella risk assessment including the required corrective actions and control measures should be implemented, or if implemented record as to why they were not.
6. A written scheme of control should be produced and maintained and the output from the scheme of control should be recorded and used in any subsequent review of risk.

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7. Regular reviews of the effectiveness of Legionella control activities should be carried out to verify the written scheme of control remains adequate, if they are not review the legionella risk assessment.
8. Have change management procedures and or regular review procedures to determine if the existing risk assessment is still valid, suitable, and sufficient. If it is not, then a reassessment of the risk is required.

For Legionella Risk Assessment:

We require where available access to:

The previous legionella risk assessment, schematic drawings, and asset registers, safe access (and any known safety requirements) to all the water systems with assistance from site staff to survey the systems. The contact details of persons to report matters of immediate concern to, which will be done on the day of the survey.

The report will be issued in a pdf.

We will provide asset registers.

We will not provide a schematic drawing as part of the report.

We do not provide a written scheme of control as part of the risk assessment; however, elements of the assessment can be used to create one.

Any reported information (not directly seen by the assessor) will be commented on in the final report.

The final report will detail unavoidable omissions, and how these should be addressed.

An individual site executive summary is included in our report.

For areas of repetition 10% will be assessed as a representative sample.

Access to site is normal working hours Monday to Friday 8am-5.30pm

Independent Consultancy Services

It is the responsibility of the dutyholder/responsible person to:

1. Provide us with any pertinent historic information relevant to the project.
2. Clearly define the work, its objectives, and outcomes.
3. Agree the expectations regarding the level of detail in and the report format.

Legionella Analytical Services

It is the responsibility of the dutyholder/responsible person to:

1. Have a risk assessment and written scheme of control in place, which may include a Legionella sampling programme and to make this available to us.
2. Provide sufficient information to enable us to design an appropriate sample plan
3. Make systems available and ensure safe access for sampling
4. Participate in the review process
5. Provide notification and any necessary instruction on known risks and safety requirements in the areas we will be working e.g. access to your asbestos register

Note: When taking legionella samples, we do not use composite samples, we will take 1 litre samples, test for all legionella species, and test at a UKAS accredited laboratory with a test limit of detection of 100cfu/L

For all services:

Please provide us with information regarding:

1. Relevant site-specific requirements
2. Safe access and egress to complete the work
3. Induction procedures
4. Access permits and permits to work
5. Security and safety restrictions
6. Who to report matters of significant concern to while we are undertaking the site work

We will:

1. Undertake a preliminary task risk assessment before starting work
2. Report by electronically/email as soon as possible after we have completed the works.
3. Report matters of significant concern to your designated person while we are undertaking the site work (where they are available).