

Consultants and Letting Agents
misinterpreting the risks of exposure
to legionella of their tenants

Awareness

Consultants and letting agents are

- i) using the revised L8 Approved Codes Of Practice (ACOP) to infer there is new legislation regarding landlords responsibilities and
- ii) misrepresenting what the law requires of landlords of domestic rented properties in relation to assessing and controlling the risks of exposure to Legionella bacteria of their tenants, for financial gain.

General Guidance of the L8 ACOP

- This guidance is for dutyholders, which includes employers, **those in control of premises** and those with health and safety responsibilities for others, to help them comply with their legal duties. It gives practical guidance on how to assess and control the risks due to legionella bacteria.
- Any water system that has the right environmental conditions could potentially be a source for legionella bacteria growth. There is a reasonably foreseeable legionella risk in your water system if:
 - water is stored or re-circulated as part of your system;
 - the water temperature in all or some part of the system may be between 20–45 °C;
 - there are deposits that can support bacterial growth, such as rust, sludge, scale and organic matter;
 - it is possible for water droplets to be produced and, if so, if they can be dispersed;
 - it is likely that any of your employees, contractors, visitors etc could be exposed to any contaminated water droplets.

What landlords are asked to do under the guidance

- All water systems require an assessment of the risk which they can carry out themselves if they are competent, or employ somebody who is. Generally most residential settings, a simple assessment may show that the risks are low and no further action may be necessary.
- e.g. likely to be small domestic-type water systems such as where daily water usage is inevitable and sufficient to turn over the entire system; where cold water is directly from a wholesome mains supply (no stored water tanks); where hot water is fed from instantaneous heaters or low volume water heaters (supplying outlets at 50 °C); and where the only outlets are toilets and wash hand basins)
- If the assessment shows the **risks are low** and are being properly managed, **no further action** is needed but it is important to review the assessment regularly in case anything changes in the system.

What landlords are asked to do under the general guidance

An example of a risk is likely such as student accommodation:

- It is important that water is not allowed to stagnate within the water system and so there should be careful management of dwellings that are vacant for extended periods (eg student accommodation left empty over the summer vacation)
- a general principle, outlets on hot and cold water systems should be used at least once a week to maintain a degree of water flow and minimise the chances of stagnation.

The misinterpretation of the guidance

The Health and Safety law:

- does not require landlords to produce a 'Legionnaires testing certificate'.

and

- Legionella testing is required only in exceptional circumstances and generally not in domestic hot and cold water systems.

The misinterpretation of the guidance

- letting agents and consultants are scaremongering landlords, for financial gain, by misinterpreting and exaggerating the legal requirements to manage and control legionella in domestic premises.

Advice

- <http://www.hse.gov.uk/legionnaires/faqs.htm>^[1] - As a landlord, what are my duties?
- <http://www.hse.gov.uk/pubns/priced/hsg274part2.pdf>^[2] - Paragraphs 2.138-2.146