



Landlords, and Legionella Risk Assessments

CLC DAILY NEWS

Landlord fined £405k over state of squalid flats

A landlord has been fined £405,000 after he left his tenants to live in "appalling" conditions.

Bijan Keshmiri, 59, from Lincoln, was handed the penalty by the city's magistrates after admitting 28 charges. Tenants were living in dangerous and squalid flats deemed "not cleanable due to years of neglect", City of Lincoln Council said. The fine is believed to be one of the biggest ever handed out to an "individual rogue landlord", it added.

Keshmiri, of Wragby Road, admitted failing to comply with fire, health and safety standards at two properties in Lincoln which had been converted into flats.

One of Keshmiri's properties had black mould throughout and no fire exits. Another had an exposed hot water supply tank without a lid which put the tenants at risk of legionella bacteria infection, the council said. Magistrates described the properties as being "a fire hazard" when he was sentenced on Monday, according to the authority.



Council leader Ric Metcalfe said: "It's pleasing to see justice has been served against this offender who has, time and time again, exploited his tenants by making them live in appalling conditions, surrounded by many fire and health hazards."

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Grandfather killed by toxic bacteria in his hosepipe

Gardener, 63, dies after catching Legionnaires' disease while cleaning his terrace.

A widow has warned the public to be wary of their hose pipes after her husband died of Legionnaires' disease thought to have been contracted by Stephen Clements, a grandfather, from Cromer, Norfolk, inhaled toxic bacteria which had grown in stagnant water within the pipe. The 63-year-old died a week later at the Norfolk and Norwich University. Now, the former builder's wife, Alison, is cautioning others about the dangers of the disease, so that other families do not face the same tragedy as her own. Mrs Clements said: 'Stephen had cleaned the patio earlier in the year and left the hose out across the lawn filled with water. In the winter sun, it was the perfect temperature for the bacteria to breed. He was cleaning the terrace with a stiff broom and the garden hose on spray. The sweeping of the broom caused the perfect aerosol, which my husband then breathed into his lungs. My husband had a heart condition but was active and well. He began having symptoms, which appeared to be an upset stomach to start with but rapidly developed into pneumonia.'



The family of Mr Clements, including his two children Joanna and Jefferson, said: 'Our family feels his loss very deeply, especially as his death could have been prevented if we had had the knowledge of the dangers of Legionella bacteria, we had no idea that a garden hose could be so lethal. North Norfolk District Council were asked by Public Health England to investigate Mr Clement's case, this involved taking water samples from the Clements' property and, Legionella bacteria were exclusively found in the hosepipe.'

Have landlords been prosecuted for failing to risk assess legionella exposure?



Landlords, and Legionella Risk Assessments

What is Legionella?

Legionnaire's disease is a potentially fatal form of pneumonia caused by the inhalation of small droplets of contaminated water containing Legionella. All man-made hot and cold-water systems are likely to provide an environment where Legionella can grow and where conditions are favourable (i.e., optimum temperature range for suitable growth; water droplets (aerosols) produced and dispersed; water stored and/or recirculated; some 'food' for the organism to grow such as rust, sludge, scale, biofilm etc) then the bacteria may multiply thus increasing the risk of exposure.

What is the Law?

Landlords and letting agents are advised to comply with HSE legislation on controlling the risks associated with Legionella. It is essential that a risk assessment and water management regime are in place to minimise the risk of legionella to individuals who may be exposed to contaminated water systems.

The HSE issued a revised version of their Approved Code of Practice (ACOP), "Legionnaires' disease: the control of legionella bacteria in water systems" (L8) which sets out guidelines and legal requirements for duty holders in managing and minimising the risks associated with legionella within domestic hot and cold-water systems. This requirement extends to landlords and letting agents, regardless of the size or complexity of the hot and cold-water system.

There were over 500 reported cases of Legionnaire's disease in England & Wales during 2019, it is serious and is potentially fatal. The HSE are taking the risks associated with legionella bacteria and Legionnaires disease very seriously and landlords who fail to comply with the ACOP where contraction of the disease occurs, could face a hefty fine.

Landlords and letting agents are identified as "duty holders" within the Technical Guidance that accompanies the ACOP (L8). This means that, as duty holders there is a duty to assess the risk from exposure to legionella to their staff, residents, guests, tenants, and customers and implementing appropriate control measures. This becomes crucial in residential buildings, where vulnerable people (such as those with respiratory problems, elderly, immune suppressed, heavy smokers and drinkers, or overweight tenants for example) may be at risk.

As a landlord, you have a legal responsibility (under the Health & Safety at Work Act 1974, Control of Substances Hazardous to Health Regulations 2002, and Management of Health & Safety at Work Regulations 1999) to ensure the health & safety of your tenant(s) by keeping the property safe and free from health hazards.



The Landlord - What do I need to do?

Landlords have a duty to assess the risk from exposure to legionella and to ensure the safety of their tenants, this does not require an in-depth detailed assessment; a simple assessment may show that there are no real risks and are being properly managed by the duty holder, along with implementing simple, proportionate, and appropriate control measures. For most domestic hot and cold-water systems, temperature is the most reliable way of ensuring the risk of exposure to Legionella bacteria is minimised, i.e., keep the hot water hot, keep the cold water cold and keep it moving.

HSE and Local Authority inspectors do not pro-actively inspect domestic premises, nor ask for evidence that landlords have undertaken a risk assessment. However, if a tenant were to contract Legionnaires' disease from the water system in the property, the landlord would have to demonstrate to a court they had fulfilled their legal duty, or may be liable to prosecution under the legislation, so it is important that they assess and control the risks.

Other simple control measures which should be documented within a management plan written by a qualified and competent person and distributed to duty holders and responsible persons to help control the risk of exposure to Legionella include:

- Avoid debris getting into the system (e.g., ensure the cold-water tanks, where fitted, have a tight-fitting lid)
- Set control parameters (e.g., setting the temperature of the hot water cylinder (calorifier) to ensure water is stored at 60°C)
- Make sure any redundant pipework (dead legs) identified are removed
- Have a management plan in place for vacant properties of extended periods (over 2 weeks) so that water does not stagnate within the water system. As 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 risk of stagnation
- Manage the risks during non-occupancy, a suitable flushing regime, or other measures such as draining the system should be implemented if it is to remain vacant for long periods and at least flushing all outlets for 2 minutes prior to re-occupation
- Consider installing instantaneous water heaters (for example combi-boilers and electric showers) - there is no water storage with these systems and thus reduces the risk further
- Ensure any contractors working on the water systems are competent to undertake the work
- Landlords are not necessarily required to record the findings of the outlet temperatures, but this is good practise and is prudent to keep a record of what has been done for their own purposes and tracking of the system's performance over time
- Revisit the risk assessment if any variables change such as a new tenancy with vulnerable occupants, or a change to the system, but at least reassess every 24 months

What do tenants need to do?

Tenants should be advised in writing, of any control measures put in place that should be maintained and managed by the tenant(s), for instance:

- Instructed to not adjust the temperature settings of the domestic water systems - this should be set at a temperature that would kill legionella bacteria (hot water heated and stored at 60°C, and outlets at 50°C after being run for 2 minutes, and cold water should not exceed 20°C after being run for 1 minute)
- Regularly (at least quarterly) clean and disinfect shower heads and tapes of limescale and mould (the legionella bacteria's food source) - low use showerheads should be placed in a carrier bag before running to avoid aerosol spray into the vicinity of the handler
- Report any issues, water discolouration, water temperature changes to the Landlord / agent promptly so that appropriate remedial action can be taken
- Flush low usage outlets and showerheads (such as spare ensuite and outside taps) at least weekly and regularly (at least quarterly) clean and disinfect these
- Instructed to not leave hose pipes connected to an outside tap, instruct to drain down and coil after each use



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How can Claire-Louise Consultancy assist?


As trained and competent Legionella Risk Assessors, we provide an ACOP L8 compliant risk assessment document following a site visit to assess the system, and:

- Make recommendations on the adequacy of the water tanks and tank's seals
- Record temperatures at each outlet to assess the risk of these outlets incubating the legionella bacteria
- Identify any dead legs in the system and provide associated recommendations
- Produce a simple, proportionate, and appropriate documented plan of control measures outlining the duty holders and responsible persons responsibilities following the site visit
- Produce a documented plan to be distributed to your tenants outlining the control measures put in place, and what their responsibilities are as responsible persons within the documented management plan



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