

The Control of Legionella A Code of Conduct for Service Providers

Legislative requirements for the control of legionella put the responsibility for compliance clearly with the owner/operator of water systems. Under the Health and Safety at Work etc Act 1974 and the Control of Substances Hazardous to Health Regulations as regards risks from legionella, all owners and operators of such systems have a responsibility to ensure that the risk is controlled and kept to an acceptable level. The HSE Approved Code of Practice and guidance on regulations (L8) stresses that whilst the tasks required to be undertaken to control the risk may be contracted to an external specialist, the owner/operator must take all reasonable care to ensure the competence of the service provider to carry out the work on his behalf.

This Code of Conduct is intended to give guidance alone, on the standard of service management that a client should expect from those service providers who agree to abide by the Code. The responsibility for the prevention and control of legionella lies with the client and the service provider.

The guidelines outlined in this document have been designed to help owner/operators select a service provider by highlighting nine critical areas and detailing the commitment that the owner/operator should expect from prospective service providers when making the competence assessment.

The Code of Conduct requires that service providers establish an appropriate management system for the provision of services associated with the control of legionella. A valid certificate is an indication of the registrant's commitment to comply with the Service Provider Commitments of the Code and should not be taken as proof of compliance. The Legionella Control Association does not approve specific products or services as being effective in controlling legionella or assess the competence of individual service provider employees.

To find out more about using the Code of Conduct to help select a suitable service provider refer to the **Buyers Guide** on the LCA website www.legionellacontrol.org.uk/download.php

Conditions of Compliance

- 1 There should be a clearly defined written agreement between the service provider¹ and the client² setting out the individual responsibilities of both parties to ensure compliance with current legislation.
- 2 Service providers should demonstrate and document a satisfactory level of competence of their staff³ in order to achieve the objectives of the Code of Conduct.
- 3 The recommendations made by the service provider should be equal to, or better than, the relevant Codes of Practice and guidance documents pertaining to the system in question.
- 4 Lines of communication and reporting between client and service provider should be defined as well as the management plan in the event of remedial or corrective action being required, including matters of evident concern outside contracted obligations.
- 5 Adequate and up to date monitoring and treatment records should be kept. These should be readily available.
- 6 The performance of the control measures should be reviewed jointly by the service provider and the client at least annually and the necessary remedial action plan agreed.
- 7 Service providers should establish a formal internal auditing procedure for compliance with the Service Provider Commitments of the Code of Conduct.
- 8 Service providers sub-contracting⁴ any legionella specific activities⁵ listed in their scope of services should establish that the sub-contractor is either registered for that activity under the LCA or should maintain additional controls and audits to ensure compliance with the LCA Code of Conduct, and regardless of whether the sub-contractor is LCA registered or not, implement procedures and checks to ensure compliance.
- 9 Copies of a current certificate should be made available to all relevant clients.

In the event that the client believes that a service provider has not complied with the Code of Conduct, he may write, with full details, to: Legionella Control Association, 6 Sir Robert Peel Mill, Hoye Walk, Fazeley, Tamworth, Staffs, B78 3QD

Definitions

1. Service Provider

Companies or individuals or their sub-contractors who are involved with providing advice, consultancy, operating, maintenance and management services or the supply of equipment or chemicals to the client.

2. Client

The owner or occupier of the premises, or his appointed representative, or other person nominated to be the "responsible person" as defined in the HSE document "Legionnaires' disease - The control of legionella bacteria in water systems, Approved Code of Practice and guidance on regulations (L8 4th Edition)," (para 51).

3. Staff

Any person directly or indirectly employed in meeting the requirements of this document.

4. Sub-contractor

For the purposes of LCA registration, a sub-contractor is a company or an individual who carries out unsupervised work, specifically associated with the control of legionella, on behalf of a service provider. In the case of companies or self-employed individuals the test as to whether the company or individual carrying out the work should be declared as a sub-contractor or not is whether the methodology employed is their own or set by the 'principal' service provider. For example, a self-employed risk assessor using the 'principal' service provider's methodology, trained by the 'principal' service provider and whose work is reviewed by the 'principal' service provider, is not a sub-contractor, whereas one who has been independently trained and who uses methodology not devised by the 'principal' service provider is a sub-contractor. Note: Section 8 of the LCA Conditions of Compliance requires that the principal LCA member implements additional controls and audits on a sub-contractor whether or not that sub-contractor is registered under the LCA.

5. Legionella Specific Activities: All categories the LCA member is registered for relating to the control of legionella.

Service Provider Commitments

1. ALLOCATION OF RESPONSIBILITIES

The Service Provider will:

- 1.1 explain in detail the client's obligations under the legionella legislation
- 1.2 identify those services covered by the contract and those which should be provided by the client to meet all current obligations
- 1.3 formalise a written agreement detailing the respective responsibilities for each requirement
- 1.4 state in the written agreement that the service provider has LCA registration for the service categories being provided.

2. TRAINING AND COMPETENCE OF PERSONNEL

The Service Provider will:

- 2.1 arrange formal training programmes for your personnel associated with the control of legionella bacteria (See current LCA Knowledge Matrix as a guide)
- 2.2 have a system for assessing the competence of your staff, establishing their training needs and ensuring they are kept up to date with current best practice
- 2.3 assist the client to assess training needs of staff and then where requested advise as to how these can be met.

3. CONTROL MEASURES

The Service Provider will:

- 3.1 have a management system to assess the requirements and ensure an appropriate programme of control measures is designed, implemented, monitored and maintained
- 3.2 have a system for verifying that corrective and preventive actions are implemented
- 3.3 ensure the programme of control measures satisfies as a minimum the LCA Standards for Service Delivery.

4. COMMUNICATION

The Service Provider will:

- 4.1 have management procedures to respond appropriately should the system operating conditions deviate from control criteria
- 4.2 agree with the client how the service provider would communicate with the client's nominated personnel in the event of any necessary actions
- 4.3 bring to the client's attention any significant matters affecting the control of legionella of which he has become aware, beyond the responsibilities of the contract.
- 4.4 have a formal staged escalation procedure to ensure that in the event of significant matters of concern that must be raised, these are escalated, as necessary, to the responsible person, the duty holder and, as a last resort, to the relevant enforcement agency.

5. RECORD KEEPING

The Service Provider will:

- 5.1 indicate which records should be kept by both parties and where they will be kept
- 5.2 establish with the client who will be responsible for the maintenance of these records.

6. REVIEWS

The Service Provider will:

- 6.1 establish a programme that will allow both parties to review formally, at least annually, all aspects of the agreement covering system management and the control of legionella.

7. INTERNAL AUDITING

The Service Provider will:

- 7.1 have a management system to ensure that service provider compliance with each of these commitments is self-audited at least once a year and that a formal record is kept
- 7.2 establish a corrective action programme so that any non-compliance identified is corrected in a timely manner.

8. SUB-CONTRACTORS

The Service Provider will:

- 8.1 have a management procedure to ensure that any sub-contractor holds an independent registration under the Code of Conduct (see Definitions for the LCA definition of a sub-contractor); or
- 8.2 where a sub-contractor is not LCA registered, implement additional controls and audits to ensure that all activities carried out are compliant with the Code of Conduct and any relevant legislation; and
- 8.3 regardless of whether the sub-contractor is LCA registered or not, implement procedures and checks as necessary to ensure that the competency of the sub-contract service provider is assessed in relation to the scope of service the sub-contractor is providing.

9. DISTRIBUTION OF THE CODE

The Service Provider will:

- 9.1 have a management system to ensure all clients to whom services are provided, associated with the control of legionella bacteria, receive a copy of the Code of Conduct and Certificate of Registration or are informed that the current documents are available on their website.

The legal duty to comply with relevant health and safety legislation (including avoidance or control of risk to exposure to Legionella bacteria) rests solely with the statutory dutyholder, being either the employer or the person in control of the premises or systems where any relevant risk is present, and this cannot be delegated. Specific functions (e.g. carrying out risk assessment) can be delegated and the Legionella Control Association (LCA) Code of Conduct is designed to help service providers, who also have duties under health and safety legislation, to establish appropriate management systems for the prevention or control of risk from Legionella bacteria. The LCA assesses the management systems of LCA members upon initial registration, reviews annually upon re-registration, and re-assesses by annual company audits. The LCA cannot and does not carry out other regular supervision of its members' commitments to the Code of Conduct nor their compliance with other LCA guidelines. A valid LCA certificate of registration (which is only valid if the Company named is listed on the LCA website www.legionellacontrol.org.uk/directory.php) confirms only that a service provider has satisfied LCA requirements at registration, re-registration and its most recent company audit. It does not confirm the service provider's actual or continuing compliance with their commitments to the LCA Code of Conduct and/or other LCA guidelines. The LCA does not approve specific products or services as being effective in controlling Legionella or verify the competence of service providers' staff and sub-contractors, which is the duty of the service provider and the statutory dutyholder. The LCA accepts no liability for any omission or any act carried out in reliance on the LCA Code of Conduct or other LCA guidelines, or any loss or damage resulting from non-compliance with such documents.

Endorsed by the British Association for Chemical Specialities and The Water Management Society

