

▶ Legionella - be aware of your responsibilities

If you are responsible for managing property, be it residential or commercial, you need to be aware of your legal responsibilities to manage the risk of Legionella, the bacterium which can cause Legionnaires' disease.

Under general Health & Safety law, people responsible for property maintenance have to consider the risk from Legionella, and this needs to be recorded in the format of a full risk assessment. This risk assessment will look at the effect such a risk would have on your staff, visitors, contractors or the public. It requires you to:

- Identify and assess sources of risk
- Prepare a course of action for preventing or controlling the risk
- Implement and manage the scheme – appointing a person to be managerially responsible
- Keep records and check that what has been done is effective
- If appropriate, notify the local authority that you have a cooling tower(s) on site

The most common ways that Legionella can become a problem is if the bacteria gets into an air conditioning system, via the water used to cool it, or if it develops inside a shower.

Air conditioning systems need regular maintenance to check they are free from risk, and showers can become a hazard if they are not used regularly. If a building you manage houses a shower that is only used on occasion, you should regularly run the shower to flush out the system.

The two most important things a property manager can do in relation to Legionella risk is firstly to appoint a trained assessor, who can explain how much risk your property is exposed to and if necessary, suggest work needed to remedy any potential problems.

Secondly, you should check with your insurance broker to make sure that you have the correct cover in place to cover your legal liability and defence costs should the worst happen. In order to be approved for this type of cover, you need to be able to demonstrate that you comply with the statutory Health & Safety procedures.



Health & Safety legislation means that if Legionella is contracted in your property, then the person or company involved can be prosecuted. Insurance cover will pay any court costs incurred in defending your actions and proving that you upheld Health & Safety guidelines. However, if someone is found to be negligent, the policy will pay for the damages awarded but not any fines or penalties imposed. This is why both strong risk management procedures and full insurance cover are equally vital.

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Introduction

Welcome to the Oval Insurance Broking Property Owners newsletter.

In this issue we discuss the need for vigilance when it comes to Legionella, take lessons from the court judgement against chemicals firm Bartoline, learn how to keep on top of potentially fraudulent claims from tenants and keep up-to-date on how to deal with insurance companies that are increasing subsidence cover premiums or restricting policy terms and conditions.

We hope you find these articles useful, and if you need any further advice on these or any topics, then do get in contact.

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► Subsidence – preparing for new risks

As weather patterns change, we are seeing more extreme weather conditions in the UK. This has directly affected the number of subsidence claims across the country.

Very dry conditions, followed by very wet ones, followed again by a period of sustained dryness can cause a situation whereby the topsoil in an area is damp, but the subsoil is dry and cracked. This phenomenon, which was relatively unusual in the UK until recently, creates a different type of subsidence fault-line, meaning properties that were not previously at risk can now be susceptible to damage and the resultant expensive reinstatement costs.



This had led to insurance companies increasing premiums and in some instances withdrawing cover altogether in areas that are now considered to be high risk.

If you find you are affected by this, it is possible to work with your broker on a programme of tree maintenance and other measures which can usually prove effective in demonstrating responsibility and encouraging insurers to offer full cover at reasonable premium rates.

In this way, you can take steps to help you maintain broad-spectrum insurance cover and even more importantly, good building health, regardless of the condition of the surrounding soil.



► Keeping on top of potential leaseholder fraud



At a time of economic uncertainty, there can be a tendency for leaseholders, both residential and commercial, to exaggerate buildings reinstatement costs when they submit an insurance claim.

All claim costs have a direct effect on the cost of future insurance premiums. It is estimated that false and exaggerated insurance claims account for an average of £44 of additional premium for every insurance policy sold in the UK. (ABI)

Most major insurers are reporting an increase in fraudulent claims. A recent survey undertaken by RSA in February 2009 showed that 1.4 million Britons thought that committing insurance fraud is more acceptable than 12 months previous, due to the challenging economic climate. As a property manager, you need to be vigilant in order to identify and control this trend.

To ensure that you are in control of all claims made, and are avoiding dishonest claims whenever possible, you can work with your broker to assess each individual claim. Fraudulent claims have a number of tell tale signs and your brokers are trained to help you assess that the claim is valid.

If a claim is obviously fraudulent, your broker can advise you on how to deal with the situation. This controls both claims costs and premium rates which can help to minimise future service charge levels, resulting in a strengthened landlord/tenant relationship.

► Off-site cleanup costs - are you covered?

Bartoline is a company that manufactures adhesives, white spirit and turpentine. In May 2003, the company suffered a fire at its premises, and chemicals and fire fighting foam heavily contaminated two nearby watercourses.

The Environment Agency carried out emergency work and then looked to recover the cost from Bartoline. It also served notices requiring Bartoline to carry out further work to reduce contamination and prevent pollution.

Bartoline naturally wanted to claim for the cost of this on its public liability policy. The company wanted to claim both for its liability to pay the Agency's costs and for the cost of further work.

Bartoline's policy had an indemnity "against legal liability for damages" for "accidental injury, accidental loss of or damage to property and nuisance, trespass to land or goods or interference with any easement or right."



The question was one of policy interpretation – did these clean-up costs fall within the policy definition of Damage?

After taking this issue to court, the judge found they did not.

It was decided that since the Environment Agency was acting in the public interest, its claim for recovery of costs was completely different from any claims from private individuals or corporate bodies.

The lesson to be learned here is that companies with public liability insurance may not always be covered for claims and associated legal costs that they are legally obliged to incur.

What this means is that any company that operates in an area where environmental damage is a possibility should check with their broker to ensure that their insurance policy extends to include such claims.

It may seem elementary that if you have such a policy in place, then of course it should cover you for such eventualities, but the case of Bartoline reminds us – it is far better to check with your broker now, than to wait until you have to claim.

The Oval group

Since Oval was established in October 2003 we have built a strong national business by acquiring, and integrating, high quality regional brokers and financial advisory companies.

We hand picked companies that already had excellent reputations in their regions and were known for their attentive approach. Our success is based on delivering first-class service, locally, to clients throughout the UK.

Our clients range from multinationals and small businesses to sole traders and private individuals.

To date, 32 companies have joined the Oval group and we now have more than 1,200 employees across the UK supporting our clients.

As an integrated group comprising insurance, risk, healthcare and financial advisory specialists, we bring a wider range of expertise to the table.

At the heart of our business is an emphasis on service excellence and total commitment to client care. We constantly aim to exceed your service expectations and we are proud of our client retention rate.

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