

Thanet District Council

Annex 5: Water Hygiene Policy

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CONTENTS

Water Hygiene Policy	2
Introduction	2
Scope	3
Regulatory Standards, Legislation and Codes of Practice	3
Additional Legislation	4
Obligations	5
Statement of Intent	5
Compliance Risk Assessment/ Inspection Programmes	6
Compliance Follow up Work	7
Record Keeping	7
Key Roles and Responsibilities	9
Competent Persons	9
Training	10
Performance Reporting	10
Quality Assurance	10
Non-Compliance Escalation Process	11
Glossary	11

Water Hygiene Policy

1.0 Introduction

- 1.1 Legionellosis is a collective term for diseases caused by legionella bacteria including the most serious Legionnaires' disease, as well as the similar but less serious conditions of Pontiac fever and Lochgoilhead fever. Legionnaires' disease is a potentially fatal form of pneumonia and everyone is susceptible to infection. The risk increases with age, but some people are at higher risk, e.g. people over 45, smokers and heavy drinkers, people suffering from chronic respiratory or kidney disease, diabetes, lung and heart disease or anyone with an impaired immune system.
- 1.2 Legionnaires' disease is normally contracted by inhaling small droplets of water (aerosols), suspended in the air, containing the bacteria.
- 1.3 Therefore, it is important that TDC control the risks by introducing measures which reduce and/or control the risk of legionella growth and proliferation of legionella bacteria and other organisms in the water systems and reduce, so far as is reasonably practicable, exposure to water droplets and aerosol in non-domestic and domestic stock as required. This will reduce the possibility of creating conditions in which the risk from exposure to legionella bacteria is increased.

2.0 Scope

- 2.1 TDC must establish a policy which meets the requirements of the Health and Safety at Work Act etc 1974 and the Management of Health and Safety at Work Regulations 1999 (the Management Regulations). In addition to this, the policy must provide assurance that measures are in place to demonstrate compliance with the Control of Substances Hazardous to Health Regulations 2002 (as amended) and to identify, manage and/or mitigate risks associated with hot and cold water systems and any other systems that may cause exposure to legionella bacteria. The L8 approved code of practice, 'Legionnaires' disease. The control of legionella bacteria in water systems', is available to duty holders to provide practical guidance on how to comply with their legal duties in relation to legionella.
- 2.2 TDC must also ensure compliance with water hygiene legislation is formally reported to Cabinet, including the details of any non-compliance and planned corrective actions.
- 2.3 The policy is relevant to all TDC employees, tenants, contractors and other persons or other stakeholders who may work on, occupy, visit, or use its premises, or who may be affected by its activities or services.
- 2.4 It should be used by all to ensure they understand the obligations placed upon TDC to maintain a safe environment for tenants and employees within the homes of each tenant, and within all HRA-assigned communal areas of buildings and 'other' properties owned and managed (offices, commercial shops, depots, etc.).

3.0 Regulatory Standards, Legislation and Codes of Practice

- 3.1 Regulatory Standards - the application of this policy will ensure compliance with the regulatory framework and consumer standards (Home Standard) for social housing in England, which was introduced by the Regulator of Social Housing (RSH).
- 3.2 Legislation - the principal legislation applicable to this policy is the Health and Safety at Work etc Act 1974, the Management of Health and Safety at Work Regulations 1999 (the Management Regulations) and the Control of Substances Hazardous to Health

Regulations 2002 (as amended) (COSHH). TDC has a legal obligation under COSHH to prevent or control exposure to biological agents. Being harmful to human health, legionella falls within the scope of these regulations.

- 3.3 Code of Practice – the principal approved codes of practice applicable to this policy are:
- ACoP L8 - 'Legionnaires' disease: The control of legionella bacteria in water systems' (4th edition 2013).
 - HSG274 - Legionnaires' disease: Technical guidance Part 1: The control of legionella bacteria in evaporating cooling systems (2013).
 - HSG274 - Legionnaires' disease: Technical guidance Part 2: The control of legionella bacteria in hot and cold water systems (2014).
 - HSG274 - Legionnaires' disease: Technical guidance Part 3: The control of legionella bacteria in other risk systems (2013).
 - INDG458 - Legionnaires' disease: A guide for dutyholders Leaflet (HSE Books 2012).

3.4 Sanctions – TDC acknowledges and accepts its responsibilities in accordance with the regulatory standards, legislation and codes of practice and that failure to discharge these responsibilities properly could lead to a range of sanctions including prosecution by the Health and Safety Executive under the Health and Safety at Work etc Act 1974, prosecution under the Control of Substances Hazardous to Health Regulations (COSHH), prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007, and via a serious detriment judgement from the Regulator of Social Housing.

3.5 Tenants and HRA Commercial Leaseholders – TDC will use the legal remedies available within the terms of the tenancy agreement, lease or licence should any tenant refuse access to carry out essential safety checks, maintenance and safety related repair works.

4.0 Additional Legislation

4.1 This Water Hygiene Policy also operates in the context of the following legislation:

4.2 The Workplace (Health Safety and Welfare) Regulations 1992

4.3 Construction (Design and Management) Regulations 2015

4.4 Housing Act 2004

4.5 Landlord and Tenant Act 1985

4.6 Homes (Fitness for Human Habitation) Act 2018

4.7 Housing Health and Safety Rating System (HHSRS) 2006

4.8 Data Protection Act 2018

4.9 Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013

4.10 Public Health (Infectious Diseases) Regulations 1998

4.11 Water Supply (Water Quality) Regulations 2016

4.12 Water Supply (Water Fittings) Regulations 1999

5.0 Obligations

5.1 The Control of Substances Hazardous to Health Regulations 2002 (as amended) (COSHH), the Management of Health and Safety at Work Regulations 1999 and the Health and Safety at Work etc Act 1974 place a duty, as an employer or person in control of a premises (e.g. a landlord), to take suitable precautions to prevent or control the risk of exposure to legionella.

5.2 TDC, as the 'Duty Holder' as defined by ACOP L8, is responsible for Health and Safety and must take the right precautions to reduce the risks of exposure to legionella, including understanding how the organisation will:

- Identify and assess sources of risk
- Manage any risks
- Prevent or control any risks
- Keep and maintain the correct records for 5 years

5.3 TDC must ensure there is a risk assessment undertaken for all hot and cold water systems, cooling plant and any other systems that can produce water droplets to establish any potential risks and implement measures to either eliminate or control identified risks.

5.4 TDC as the 'Duty Holder' responsible for control of legionella and water hygiene safety must appoint a competent/responsible person to take managerial responsibility for legionella control - risk assessment, production of a written scheme and implementation of that scheme to prevent or control the risks. A competent person is someone with sufficient authority, competence, necessary skills, knowledge of the system and experience. TDC will ensure that properties are risk assessed by a competent person for potential to cause exposure to legionella.

5.5 In addition, the 'Duty Holder' will appoint an authorised deputy responsible person who will provide cover to the responsible person in their absence. The deputy responsible person should be trained, instructed, and informed to the same level as the responsible person, and they should assist in the frequent monitoring of the control scheme(s).

6.0 Statement of Intent

6.1 TDC acknowledges and accepts its responsibilities with regard to water hygiene safety and preventing exposure to legionella.

6.2 TDC will hold accurate records against each property it owns or manages, setting out the requirements for water hygiene risk assessments and safety checks.

6.3 TDC will periodically review risk assessments (every 2 years) in case anything changes in the system. Where a system is identified as more likely to undergo change and is therefore a higher risk, the risk assessment will be reviewed on a more frequent basis, dependent on the determined level of risk. TDC will ensure that a 'written scheme of control' is developed and fully implemented for all properties risk assessed as requiring controls to adequately manage the risk of legionella exposure. The schemes will be assessed by TDC's competent person as high, medium or low risk.

6.4 TDC will ensure that a risk assessed approach for water hygiene safety is adopted as

part of the void standard, when carrying out works on void properties prior to re-let. These checks will be applicable on all void properties prior to commencing works which may affect the hot and cold water systems and will ensure that any identified risk control measures are fully implemented where identified.

- 6.5 TDC will ensure audits are undertaken annually, by an independent competent person, to all systems identified as a high risk (e.g. older persons' schemes) to ensure that all control actions are being fully and robustly implemented.
- 6.6 TDC will ensure that only suitably competent consultants, surveyors, risk assessors and engineers undertake works for the organisation in respect of water hygiene safety.
- 6.7 TDC will make written schemes of control in communal areas of buildings available to inform occupants on how the risk of exposure to legionella bacteria is being managed and controlled.
- 6.8 TDC will have a robust process in place to gain access to properties where tenant vulnerability issues are known or identified, whilst ensuring the organisation can gain timely access to any property in order to be compliant with this policy and safeguard the wellbeing of the tenant.
- 6.9 TDC will establish and maintain a plan of all continuous improvement activity undertaken with regards to water hygiene safety.
- 6.10 TDC will ensure that all contractors' employee and public liability insurances are up to date on an annual basis.
- 6.11 TDC will ensure contracts/service level agreements are in place with the contractors responsible for delivering the compliance service.
- 6.12 TDC will ensure there are effective contract management arrangements in place, in the form of client-led meetings taking place regularly, with standard agendas and minutes produced, key performance indicators analysed and programmes and performance scrutinised.
- 6.13 TDC will implement a robust process to deal with all changes to stock, including new property acquisitions, disposals and stock transfers, in order to ensure that properties are not omitted from the compliance programme, and to ensure the programme remains up-to-date.
- 6.14 TDC will ensure that there is a robust process in place for the management of immediately dangerous situations identified from the risk assessment or water testing/monitoring regime.
- 6.15 TDC will adopt a proactive approach to tenant communications (for example, including water hygiene information within tenancy packs).

7.0 Compliance Risk Assessment/ Inspection Programmes

- 7.1 Risk assessment – TDC will establish and maintain a risk assessment for water hygiene safety operations. This risk assessment will set out the organisation's key water hygiene risks together with appropriate mitigations.
- 7.2 CDM - to comply with the requirements of the Construction, Design and Management Regulations 2015 (CDM) a Construction Phase Plan will be completed for all repairs work to void and tenanted properties (at the start of the contract and annually thereafter), component replacement works and refurbishment projects where applicable.

- 7.3 Legionella risk assessments – TDC will carry out a programme of legionella risk assessments and risk assessment reviews to properties containing any water system that could present a risk of exposure to legionella. These risk assessments will be reviewed at least every two years, or after any works have been completed to the installation.
- 7.4 Communal blocks and ‘other’ properties - all communal blocks and ‘other’ properties will be subject to an initial visit to establish whether a legionella risk assessment is required. Where a risk assessment is not required then TDC will record this as such on their records, including the date of the initial visit. Where a legionella risk assessment is required TDC will ensure this communal block or ‘other’ property is included in the programme.
- 7.5 Void properties – Properties left unoccupied will be checked for dead legs, receive frequent flushing and shower head cleaning to comply with the Water Hygiene Procedure.
- 7.6 Commercial Stock Assigned to the HRA – TDC will ensure they have records of a valid LRA where properties they own or manage are managed by another person or organisation (i.e. are managed by managing agents). These properties will be included on the TDC Water Hygiene programme, so a new LRA can be requested from the managing agent prior to the existing one expiring. If the managing agent fails to carry out the LRA, TDC will step in and carry out the test and re-charge the managing agent for the cost of this work.
- 7.7 TDC will carry out a programme of maintenance visits by competent persons to all properties that have a written scheme of control in place. These programmes will ensure that all maintenance and testing set out in the written scheme of control is fully completed at the times and intervals stated. The results of these visits will be recorded electronically.

8.0 Compliance Follow up Work

- 8.1 TDC will ensure there is a robust process in place for the management of any follow-up works required following the completion of a legionella risk assessment or where identified by the competent person when undertaking required maintenance activities.
- 8.2 TDC will ensure that there is a robust process in place to collate and record details of all remedial works and water testing completed against individual installations.

9.0 Record Keeping

- 9.1 TDC will establish and maintain a spreadsheet of all properties that have a written scheme of control for water hygiene in place. This register will also hold data against each property asset of the legionella risk assessment carried out.
- 9.2 Inspection and re-inspection dates, along with LRA and monitoring records will be held on the spreadsheet or on the shared drive.
- 9.3 TDC will establish and maintain accurate records of all written schemes of control and any associated remedial works and water testing, as per the organisation’s Data Retention Policy.
- 9.4 TDC will maintain log books for all relevant sites as required to record the details of the results from the ongoing monitoring and inspection, where required.
- 9.5 TDC will hold and maintain accurate records on the qualifications of all consultants,

surveyors, risk assessors and engineers undertaking water hygiene works for the organisation.

- 9.6 TDC will ensure robust processes and controls are in place to provide and maintain appropriate levels of security for all water hygiene safety related data.

10.0 Key Roles and Responsibilities

- 10.1 TDC Cabinet will have overall governance responsibility for ensuring the Water Hygiene Policy is fully implemented to ensure full compliance with the regulatory standards, legislation and approved codes of practice. As such, they will formally approve this policy and review it every two years (or sooner if there is a change in regulation, legislation or codes of practice).
- 10.2 The Cabinet will receive regular updates on the implementation of the Water Hygiene Policy and compliance performance, along with notification of any non-compliance issue which is identified. This is so they have assurance that the policy is operating effectively in practice.
- 10.3 The Head of Housing and Planning has strategic responsibility for the management of water hygiene safety and for ensuring compliance is achieved and maintained. They will oversee the implementation of the Water Hygiene Policy.
- 10.4 The Compliance Manager will be responsible for overseeing the delivery of the agreed water hygiene programme, and the prioritisation and implementation of any works arising from the safety inspections.
- 10.5 The housing teams will provide key support in gaining access into properties where access is proving difficult and use standards methods to do so. They will also facilitate the legal process to gain access as necessary.
- 10.6 TDC's Head of Housing and Planning will be responsible for ensuring the policy is reviewed every two years, and will notify the CMT and relevant operational team(s) responsible for the delivery of the compliance programme, of the upcoming review. They will also ensure that this review process takes place before the policy expires in March 2022.
- 10.7 The Head of Housing and Planning will ensure that this policy is saved on the shared drive and distributed to all relevant members of staff.

11.0 Competent Persons

- 11.1 TDC will ensure that the manager with lead responsibility is appropriately competent, holding a recognised qualification in legionella control through the completion of a certified training course designed to meet the training needs of a 'duty holder' or 'responsible person' for legionella control. This qualification will be obtained within 12 months of the start of employment for any new operational leads.
- 11.2 Training includes courses by BOHS (British Occupational Hygiene Society) such as P901 – Management and control of building hot and cold water services, City and Guilds, CIBSE, or HABC around the requirements of ACoP L8 - 'Legionnaires' disease: The control of legionella bacteria in water systems'.
- 11.3 TDC will ensure that only suitably competent consultants and contractors, registered members of the Legionella Control Association (LCA) or equivalent, are procured and appointed to undertake risk assessments, prepare written schemes of control and undertake works in respect of water hygiene and legionella control.

11.4 The operational team with responsibility for delivery will check the relevant qualifications of employees working for these contractors to ensure that all persons are appropriately qualified for the work that they are carrying out. These checks will be undertaken on an annual basis and evidenced appropriately.

12.0 Training

12.1 TDC will ensure that all operatives working for, or on behalf of, the organisation have the relevant training required for their role. This will be managed via periodic assessments of training needs and resulting programmes of internal and/or external training.

13.0 Performance Reporting

13.1 Robust key performance indicator (KPI) measures will be established and maintained to ensure TDC is able to report on performance in relation to water hygiene / legionella safety.

13.2 KPI measures will be produced and provided at service level on a monthly basis and CMT and elected members on a quarterly basis. As a minimum, these KPI measures will include reporting on:

Data – the total number of:

- Properties – split by domestic properties, communal blocks and ‘other’ properties;
- Properties on the LRA programme;
- Properties not on the LRA programme;
- Properties with a valid ‘in date’ LRA. This is the level of compliance expressed as a number and a %;
- Properties where the LRA has expired and is ‘out of date’. This is the level of non-compliance expressed as a number and a %;
- Properties which are due to be inspected and tested within the next 30 days. This is the early warning system;
- The number of follow up works/actions arising from any risk assessments or inspections, and the numbers ‘completed’, ‘in time’ and ‘overdue’.

As well as an explanation of the:

- Current position;
- Corrective action required;
- Anticipated impact of corrective action;
- Progress with completion of follow-up works – number of actions – ‘completed’, ‘in time’ and ‘overdue’.

14.0 Quality Assurance

TDC will appoint an independent competent person to complete a programme of compliance audits to 5% of written schemes of control to ensure that all control actions are being fully and robustly implemented. In addition all schemes identified as high risk will receive an annual audit.

15.0 Non-Compliance Escalation Process

- 15.1 The definition of non-compliance in relation to this policy refers to any incident which results in a potential breach of legislation or regulatory standard, or which causes or has the potential to cause a significant risk to health or safety.
- 15.2 Any non-compliance issue identified at an operational level will be formally reported to the Head of Housing & Planning in the first instance.
- 15.3 The Head of Housing & Planning will agree an appropriate course of corrective action with the relevant operational team(s) in order to address the non-compliance issue and report details of the same to CMT.
- 15.4 The Head of Housing & Planning will ensure the Cabinet Member for Housing and Safer Neighbourhoods is made aware of any non-compliance issue so they can consider the implications and take action as appropriate.
- 15.5 In cases of a serious non-compliance issue TDC's CMT and Monitoring Officer will consider whether it is necessary to disclose the issue to the Regulator of Social Housing in the spirit of co-regulation, or any other relevant organisation such as the HSE, as part of the Regulatory Framework.

16.0 Glossary

- 16.1 This glossary defines the key terms used throughout this water hygiene policy:
 - 16.1.1 Legionellosis: a collective term for diseases caused by legionella bacteria including the most serious Legionnaires' disease, as well as the similar but less serious conditions of Pontiac fever and Lochgoilhead fever.
 - 16.1.2 LRA: Legionella Risk Assessment – an assessment which identifies the risks of exposure to legionella in the water systems present in a premises and the necessary control measures required.
 - 16.1.3 Duty Holder: the owner of the non-domestic premises or the person or organisation that has clear responsibility for the maintenance or repair of non-domestic premises, for example through an explicit agreement such as a tenancy agreement or contract.