



Law turns up the heat on system hygiene

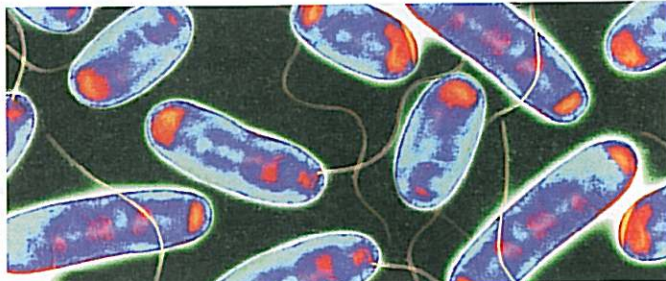
The will be no escape for building managers who ignore the tightening health and safety laws and companies could be find up to 5% of turnover, writes Gary Nicholls*

BUILDING MANAGERS FACED with shrinking budgets must not be tempted to ignoring tightening health and safety laws.

Despite the credit crunch there is little evidence of a downturn in the workload of ventilation and water system hygiene specialists. This is thanks to increased levels of awareness about the health and safety implications of poorly maintained systems as well as tough new laws covering fire and corporate manslaughter.

These days building owners and operators are far more aware of the risks surrounding airborne bacteria transmitted through buildings by dirty ductwork and water hygiene concerns such as Legionnaires' disease.

The introduction of the Corporate Manslaughter Act last



Legionella bacteria: It is now easier to prosecute under tighter laws

year will make it easier for prosecutors to convict in outbreaks of Legionnaires' disease and in the aftermath of building fires linked to poorly maintained ventilation.

Now the offence of corporate manslaughter has been established, government is seeking to back it up with draconian penalties. Companies found guilty of causing

a death could be paying fines starting at 5% of turnover. The Act covers commercial companies and organisations including local authorities, NHS bodies, government departments, police forces and some business partnerships.

"Under the [corporate manslaughter] law you are required to render a piece of equipment safe," says Simon Joyston-Bechal, a partner of solicitor Pinsent Masons. "This includes a suitable maintenance regime.

"If, for example, fire investigators found there were no access doors in the ductwork so making it impossible to carry out proper ventilation cleaning and this led to somebody's death in a fire, then the building owner could face prosecution."

A spokesman of the Ministry of Justice's criminal law policy unit adds: "an organisation can be found guilty of an offence if the way its activities are managed and organised causes a person's death and this amounts to a gross breach of a duty of care to the deceased".

"A substantial part of the failure must have been in the way those activities were organised by senior management."

Legal experts confirmed the outcome of investigations into outbreaks of Legionnaires' disease might have been different if the Corporate Manslaughter Act had been in force.

"The Barrow-in-Furness case [where seven people died and many more were seriously harmed] is very important," said Joyston-Bechal. "Prosecutors were not able to find a 'controlling mind' behind the outbreak so could not press manslaughter

charges against the local authority.

"The new Act would make it easier to achieve a prosecution because you would only have to show that anyone involved had control of a substantial part of the organisation's activities. This Act is creating a new landscape for Legionnaires' disease prosecutions."

Many insurance providers include clauses in policies that mean they will not pay out following a fire or other disaster if there is evidence the services were not properly maintained.

In the case of ventilation ductwork, this means they must be thoroughly and regularly cleaned to reduce the risk of fire being spread by, for example, grease accumulated in extract systems.

However, getting proper access to carry out cleaning can be a headache. In most installed systems Swiftclean surveys there aren't enough access doors. It doesn't take a genius to work out that if access was not addressed when the system was installed, it has probably never been cleaned.

In most cases, the solution is for the hygiene contractor to put the access doors in himself.

End users should ensure they use competent hygiene maintenance firms, which are able to provide proper evidence of the skills and give the user proof they have carried out a full, deep clean.

The Heating and Ventilating Contractors' Association (HVCA) provides a Guide to Good Practice (TR/19) *Internal Cleanliness of Ventilation Systems*.

This should be used as the basis for any remedial and on-going maintenance programme to ensure ductwork provides an acceptable level of ventilation and that health and fire risks are periodically removed.

It should also satisfy insurers that a hygiene programme is in place and is being followed, while potentially keeping the lawyers off the building owner's back in the event of a serious incident.

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