

LEGIONNAIRES' DISEASE SPECIFIC ISSUES: PRACTICAL ADVICE NOTE FOR SAMPLING AT INDUSTRIAL PREMISES IN LEGIONNAIRES' DISEASE OUTBREAKS

1 Context

- 1.1. This informal practical advice note only covers practical issues relating directly to urgent sampling and should not be used as a guide to other aspects of dealing with the outbreak. Detailed guidance on outbreaks potentially involving industrial premises can be found in the HSE operational guidance at: <http://www.hse.gov.uk/foi/internalops/og/og-00095.pdf>
- 1.2. Warning: Urgent control measures to control *Legionella* risk (e.g.: emergency inspection/shutdown/disinfection) should not be delayed to wait for sampling to be sorted.
- 1.3. Sampling for *Legionella* in industrial systems in outbreak situations may be of little benefit in detecting the bacterium. A negative result does not exclude the possibility that the premise sampled is the source. Consider whether sampling is of public health value to the OCT before proceeding.
- 1.4. PCR detects both (living viable) and dead bacteria. For the HSE current position on qPCR testing see: <http://www.hse.gov.uk/legionnaires/faqs.htm#Testing-monitoring>
Issues to consider - legal powers of entry and to undertake sampling
In outbreak situations the company may co-operate fully. However the powers in the Health Protection (Wales) Regulations 2010 under the Public Health (Control of Disease) Act 1984 can be used. The Request to Co-operate Letter under this legislation is useful in this situation. Powers of entry under the Environmental Protection Act 1990 could be used to gain access to the premises. Section 79 of this Act allows LA's to deal with "any dust, smell or other effluvia arising on...premises and being prejudicial to health or nuisance", which includes pathogenic organisms. EHO's are allowed to enter premises and take samples, regardless of whether the premises are enforced by HSE or the LA under health and safety legislation. The HSE advise that case law (R v Board of Trustees of Science Museum) has confirmed that evidence of actual *Legionella* (i.e. from sampling) is not required to support enforcement under the Health & Safety at Work etc Act 1974.
- 1.5. HSE legal advice has confirmed that there are no powers to sample for *Legionella* under health & safety legislation for public health purposes.

2 Who will sample?

- 2.1. Each sampling exercise must be subject to an individual risk assessment before commencement so that samplers are not put at risk.
- 2.2. Samples in industrial premises should only be taken by appropriately trained and experienced individuals.
- 2.3. Samplers could be:
 - Appropriately trained Local Authority Officers
 - Appropriately trained Local Authority Officers from a neighbouring authority
 - Reputable private contractors offering these services
- 2.4. In some circumstances, Natural Resources Wales may be able to assist by providing advice on securing samples to ensure evidential standards are met and providing courier services. This may be particularly useful on unusual/complex industrial sites regulated by the Natural Resources Wales with which other potential samplers may be unfamiliar. In these cases, Natural Resources Wales staff will not be entering and sampling using their own powers but accompanying the Local Authority under Local Authority, public health legislation in the same way as private contractors can access the site and sample in these circumstances.

3 Progression through workplace

- 3.1. The sampler should be accompanied by:
 - The Responsible Person from the company/site to ensure safety on site.
 - A Regulatory officer from the Local Authority/HSE if the sampler is not a LA officer.
- 3.2. If the Regulator is not available to urgently accompany the sampler, the Regulator should provide advice as required on any known relevant aspects of the process being sampled.

Such advice is necessary to inform the risk assessment prior to the sampling visit and activity.

4 Chain of evidence

- 4.1. The protection of public health takes precedence over collecting evidence. However, it would be wise to consider how to protect the chain of evidence when samples are taken, and take steps to maintain this.

Sampling when Officers identify *Legionella* control issues whilst inspecting a potential industrial source in an outbreak situation

- 4.2. During an outbreak, a number of industrial premises may be visited. Any of these may be identified as not having adequate Legionella controls and an enforcement notice may be issued. In this case, the inspecting Officer should report this urgently to the OCT so that if sampling is deemed necessary by the OCT, it can be arranged without delay. It would be wise for any OCT to consider arrangements to respond to this contingency, particularly out of hours, prior to it arising.