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Legionella Coverage in the UK Public Liability Insurance Market: Disease, Pollution or Excluded?

By Stuart Stead FCII

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Introduction

Having worked in the UK insurance sector for almost 30 years as a Chartered Insurance Broker I come across a wide variety of risks which I place into the insurance market on behalf of my clients. Ensuring that my clients have the correct cover in place is essential, as well as having robust policy wordings to afford them the best possible protection.

Having won a commercial account recently, I was fascinated by an historic claim that my new client had encountered prior to my appointment which had caused them many restless nights whilst their insurer considered whether or not they would respond to a claim.

Unfortunately my client had been involved in a public liability claim following the death of an individual who was exposed to Legionnaires' disease. The issue stemmed from the fact that the insurer, whilst establishing that there had been a negligent act by their policyholder which had given rise to the death of a member of the public,



Introduction - continued

was undecided on whether the loss was in fact covered by their public liability wording. Insurers eventually conceded liability and settled the claim for a sum in excess of £1m.

What appeared to be a straightforward public liability claim for a major UK insurer to deal with for their policyholder, suddenly became a point of discussion around whether in fact there was any cover afforded under the policy. This was due to the fact that whilst Legionnaires' is a disease, it ultimately stems from Legionella bacteria which breeds over a period of time which lends itself to pollution.

The question therefore arose as to whether standard UK public liability policies are adequate enough to afford protection to policyholders in the event that they are met with death, disease or bodily injury claims against them arising from Legionnaires' disease.

Intrigued by the events that my new client had encountered in the past and ensuring that they, along with other clients, did not have to go through similar anguish, I embarked

upon research to firstly establish whether or not Legionnaires' was in fact a disease or whether it was considered to be pollution and secondly to understand the UK public liability insurance market's response to such an event. Ultimately I wanted to know whether or not policies available in the market would provide cover in the event of a Legionella event and if so, to what extent.

Whilst my initial interest in this matter stems from my own intrigue and quest to understand fully the UK public liability insurance market's response to covering Legionnaires' disease related losses, the research and findings I feel, will also benefit the broking industry as a whole when placing risks which could have exposures to Legionella.

My research in the main has been to interrogate the UK public liability insurance market's standard policy wordings and how these would deal with a Legionella related loss but has included numerous discussions with insurers and their underwriters around their

own interpretation of their wordings as there is very little written on the subject.

The outcomes I came across from the research undertaken were varied in terms of each insurer's individual response and this paper attempts to bring about some clarity around what Legionella actually is, whether insurance companies policy wordings are actually broad enough to deal with all types of outbreaks of Legionnaires' disease and what solutions are available to afford peace of mind to policyholders by way of best cover.

My findings make useful reading for those placing liability insurance policies and assists them in ensuring policyholders are provided with a robust policy wording to protect them from Legionella related losses.

By Stuart Stead FCII



About Legionnaires' disease

What is Legionnaires' disease?

Legionnaires' disease¹ (as well as Pontiac fever) is a severe form of pneumonia that is caused by *Legionella pneumophila* bacteria. The disease can be fatal.

Legionella bacteria thrive in natural water such as lakes, rivers, reservoirs and ponds but are also found in purpose-built water systems such as swimming pools, hot tubs/spas, cooling towers and hot and cold-water systems.

Who does it affect?

Legionnaires' disease can affect anyone, but people at a higher risk of contracting the disease are those aged over 45 years of age, smokers and heavy drinkers.

In addition people who have severe respiratory problems, kidney heart or lung disease, diabetes and those with a low immune system are at a higher risk, although Legionnaires' disease only affects around 1-2% of those exposed to the bacteria.

During the period 2014 - 2016 there were 1,070 confirmed cases of Legionnaires' disease reported in England and Wales and of these cases there were 77 deaths.²

About Legionnaires' disease - continued

How is Legionnaires' disease contracted?

Legionnaires' disease can be contracted by the inhalation of water droplets dispersed into the air which contain the Legionella bacteria. For example, spray, mists and aerosols of water droplets from showers, hot tubs, spas etc where the water in them is warm which will cause these types of environments.

The conditions for the growth of the bacteria need to be right and such conditions increase the risk of growth when the temperature within the water systems are between 20°C and 45°C, and where water is stored and recirculated and the disbursement of spray, mists and aerosols as described above is possible.

The Health & Safety at Work Act 1974 (HASWA) and the Control of Substances Hazardous to Health Regulation 2002 (COSHH) impose duties on employers to identify and risk assess the exposures to Legionnaires' disease and to ensure that such bacteria growth is either prevented or controlled.³

Treatment

If it is not preventable then controlling the growth of the bacteria can be undertaken by way of treating water systems by chlorination. For example in hot tubs and spas the addition of a sufficient level of chlorine to the water is required at a rate of 3mg/L (milligrams per litre) and 5mg/L. In addition the pH level within the water systems needs to be maintained between pH7.2 and pH7.6. This level of chlorination and pH ensure that most bacteria are killed⁴.

Legionnaires' disease summary

In summary, if water systems are left untreated and the conditions are right then the Legionella bacteria can grow. In turn, when introduced to the target audience at highest risk who are exposed to the inhalation of the water droplets containing the bacteria, there is a risk of contracting the potentially fatal Legionnaires' disease.

Having understood what Legionnaires' disease is and how it operates we can now move on to the construction of UK public liability policy wordings.

Policy Wordings

UK public liability policy wordings background

It is perhaps useful to firstly understand the typical formation of UK public liability policy wordings and how these respond to pollution.

Let us take a look back to the early 1990s where UK public liability policies generally responded to pollution events until 1991 when a new Association of British Insurers (ABI) wording began to be adopted by the UK public liability insurance market which included a pollution exclusion.

ABI Model Pollution Exclusion

The ABI Model Pollution Exclusion⁶ wording reads:

“This policy excludes all liability in respect of Pollution or Contamination other than caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.

All Pollution or Contamination which arises out of one incident shall be deemed to have occurred at the time such incident takes place.

“Pollution or Contamination” is defined as:

“(i) all Pollution or Contamination of buildings or other structures or of water or land or the atmosphere; and

(ii) all loss or damage or injury directly caused by such Pollution or Contamination.”

The context of the pollution exclusion

Considering the above in the context of a Legionella outbreak then we need to understand the meanings of the key words within the ABI Model Pollution Exclusion:

“Sudden”

The impact of the word sudden suggests an abrupt or quick happening rather than a gradual event.

“Identifiable” and “takes place in its entirety at a specific time and place”

There is no doubt here that there has to be a specific event occurring as a single one-off incident as opposed to something occurring over an extended period of time.

“Unintended”

It is clear that this means that the event is not meant to happen and is a non reckless event.

“Unexpected”

An event which is unanticipated and fortuitous.

Policy Wordings- continued

Proximate cause

As with all insurance claims, the proximate cause⁷ of the event giving rise to the incident has to be established and, focusing on a Legionella outbreak which subsequently causes Legionnaires' disease in humans, we have to go back to our earlier comments around how Legionella bacteria are formed.

It is clear so far that Legionella bacteria multiply and thrive in warm water including mists created by warm water environments, such as those mentioned earlier in this paper. As the bacteria requires time to form and grow it seems that rather than a "sudden" or an "identifiable" event, the duration of time means that in fact the growth is not sudden or quick happening. It is for this fact that Legionella is deemed to be a form of pollution in the same way as oil being dispersed into a river is also deemed to be pollution.

Furthermore, as we know what type of environments lead to the breeding and growth of the Legionella bacteria, then by allowing certain environments to remain untreated,

will lead to an outbreak of Legionella and anyone coming into contact with such bacteria will expose themselves to contracting Legionnaires' disease. In this context therefore the "unintended" and "unexpected" aspects mentioned earlier in effect become expected and non fortuitous.

Therefore in the absence of the implementation of the treatment of water systems by regular chlorination and the monitoring of the pH levels within such water systems, Legionella bacteria will undoubtedly breed and multiply over a period of time which is clearly not a "sudden" or an "identifiable" event.

With the advent of the ABI Model Pollution Exclusion then taking each of the main words of this would mean that most, if not all, outbreaks of Legionella would in fact fall within the exclusion and therefore no cover would be afforded by a standard UK public liability policy wording.

This is very concerning as one would expect the pollution element of a UK public liability policy wording to respond to such a "disease" incident but upon close examination of the ABI Model Pollution Exclusion wording it is very apparent that most cases would fall foul of the fact that a Legionella bacteria outbreak would not be deemed to be "sudden", "identifiable", "unintended" and "unexpected".

Using the doctrine of proximate cause, whilst a loss occurring from the contraction of Legionnaires' disease may be ascertained, the underlying cause or chain of events leading to the disease will need to be established.

Policy Wordings- continued

Example 1

As an example let us take what we have learnt so far and apply this to a scenario. A hotelier provides a hot tub which is used by its guests. The hotel acknowledges that the operation of the hot tub could lead Legionella bacteria to breed and therefore its guests could be exposed to the contraction of Legionnaires' disease without the treatment and control of the water within the hot tub, namely the regular testing and chlorination of the system.

The hotel implements a manual system of checking the pH levels of the water within the hot tub at set intervals as recommended by the HSE and the manual chlorination of the hot tub by its own staff.

So long as there is regular treatment by way of the chlorination of the hot tub, the bacteria are unable to breed and the risk of contracting the disease eliminated. However if there is a break in the treatment of the water within the hot tub then over a period of time in the optimum environment as mentioned earlier, the bacteria are free to grow and the risk of contracting Legionellosis, particularly by those within the highest risk category increases considerably.

The staff engaged to undertake the testing and chlorination fail to do what is required of them over a period of days and the inevitable happens with an outbreak of Legionella bacteria being dispersed in the water mists, and an elderly gentleman with respiratory problems contracts Legionnaires' disease and subsequently dies.

In this example therefore, whilst the proximate cause of death would undoubtedly be Legionnaires' disease, the way in which it is contracted will be due to the fact that there was a lack of treatment and this has allowed a period of time for the bacteria to breed and pollute the water system.

It is this period of time which determines that there has been no sudden, identifiable, unintended and unexpected event taking place in its entirety at a specific time and place, and therefore the pollution falls within the ABI Model Pollution Exclusion as described above. In fact you could say that the inaction by the employees has been "reckless" which has allowed an "unintended" event (as per the pollution wording above) to become intended which therefore determines that cover will not be provided under the pollution exclusion.



Policy Wordings- continued

Example 2

Using the same example again, but this time including an automated mechanical system for the testing and chlorination of the hot tub which would hopefully result in the control of the bacteria. However, what if the automated system failed without the knowledge of the hotel staff which subsequently leads to the Legionella bacteria infecting the elderly gentleman causing his death?

In this example, whilst there has been a period of time to allow the growth of the bacteria, the actual cause was due to the failure of the automated system which was a sudden, identifiable, unintended and unexpected event taking place in its entirety at a specific time and place. This time the ABI Model Pollution Exclusion does not apply.

It is clear from these two examples alone why the ABI Model Pollution Exclusion means that there is uncertainty for policyholders around whether or not their UK public liability policies will respond to Legionella events and that each occurrence will need to be closely scrutinised

before a decision on liability can be made. This is clearly why my client had undergone much anguish whilst waiting for a decision from their insurers who ultimately dealt with the loss.

In each and every case where there is a Legionella outbreak which causes death, disease or bodily injury to third parties, the specific circumstances would need to be evaluated. This will need to start with how the bacteria have been allowed to breed and whether there has been an allowance of this, but in addition an understanding of how the outbreak has been caused.

If there has been no sudden, unexpected, identifiable incident which takes place in its entirety at a specific time and place then policyholders relying on the standard UK public liability policy wordings with the ABI Model Pollution Exclusion would be taking a large risk, akin to playing Russian Roulette, with a policy wording as there are too many variables to determine that each and every Legionella incident in both cause and type would be covered.

Research

Research

Having started with the ABI Model Pollution Exclusion and understanding the implications of an outbreak, I then began to compile a spreadsheet to capture and record each major UK insurer's own stance on Legionella and whether in fact their wordings catered for, and provided cover for, Legionnaires' disease losses. This research was a combination of scrutinising each insurer's policy wording, as well as speaking to their underwriters for their own stance and take on such cover and their response to a request to provide specific Legionella cover to wordings where it was evident that a "silent" stance actually meant there was limited or possibly no cover.

Interestingly, Chubb were the only insurer approached who, whilst remaining silent in their own product range on Legionella, advised that they would actually respond positively to a claim for Legionnaires' disease by the virtue that they do not consider the spread of Legionella bacteria to be "pollution" within the

meaning of the exclusion. Therefore their silent response to Legionella, and by not having a specific Legionella exclusion, means that their policy wording would respond to the full limit of indemnity provided under the public liability section of their product range.

Furthermore, this single insurer advised they had no extension wording for Legionella as they would in all circumstances respond to a claim for Legionnaires' disease.

The full results of my research are detailed in the Appendix of this report and are quite varied between the insurers reviewed, although a pattern is evident and commented upon within the Conclusion section of this paper.

Property owners/real estate policy response

My research found that the major property owners/real estate insurers in the main cater for Legionella and remove the uncertainty that is evident from the ABI Model Pollution exclusion by specifically writing in a Legionella wording to the effect that cover is definitely provided by the wording, usually to a pre-determined limit (typically £1m) which can be increased upon request and potentially subject to an additional premium.

Research - continued

UK public liability policy response

To the contrary, most standard UK public liability policies or sections of general commercial combined policy wordings exclude Legionella by the fact that they rely upon the ABI Model Pollution Exclusion. Unless specifically requested to add in a Legionella extension, the majority of the UK public liability insurance market simply remains silent on the subject and uses the pollution exclusion which would possibly not provide cover for an outbreak of Legionnaires' disease causing death or bodily injury by the virtue that such events are typically not be "sudden", "Identifiable", "unintended" and "unexpected".

Legionella cover extensions

It was interesting when speaking to underwriters that most were willing to provide a Legionella extension which overrides the pollution exclusion, and therefore writes back into the policy wording cover, which would ordinarily be excluded.

The majority who were willing to provide such an extension simply wished to understand the exposure they faced. Depending on the characteristics of the risk presented some would charge an additional premium, whereas others were willing to add cover at no additional cost.

Typically, risks with a greater exposure who would warrant the imposition of an increased premium for the Legionella Extension would be hotels with swimming pools and spas, gymnasiums with similar exposure, but also those with saunas and any risks with showering facilities and large water tank exposures.

Conditions precedent to liability

Many of the insurers I researched who provided specific Legionella cover, either by automatically including within their policy wording or by adding an extension by request, often stipulate a policy Condition precedent to liability along the lines that policyholders must adhere to the Health & Safety at Work Act (HASWA) and undertake a risk assessment, as well as adhering to the Control of Substances Hazardous to Health Regulations 2002 (COSHH). Furthermore, having undertaken a risk assessment, policyholders are also required to put measures into operation to prevent the growth of Legionella bacteria that may cause Legionnaires' disease.

As such conditions are precedent to liability, policyholders who fail to carry out and record suitable risk assessments and implement risk control measures will forgo the benefit of the Legionella cover provided.

Research - continued

Legionella limits of indemnity

Some insurers whilst happy to include the Legionella extension subject to an additional premium were only prepared to offer a relatively low limit of indemnity of just £1m which was worrying considering my starting point for this research had been my newly acquired client who had suffered a Legionnaires' disease claim which amounted to in excess of £1m. Therefore it was important I felt to explore what limits of indemnity insurers were prepared to provide upon request with the majority limiting their exposure to £5m but for a further additional cost.

Insurer ethics

Considering the research undertaken as stated above it therefore poses a question of ethics on whether insurers really want to respond to what they know is a very real exposure faced by many policyholders, by relying on specific circumstances in each and every Legionella case to ascertain that their pollution exclusion would actually result in them declining a claim. By the virtue that insurers are willing to add a specific Legionella cover extension to their policies to provide a "belt and braces" approach but only upon request, suggests that many insurers are more than happy to use the ABI Model Pollution Exclusion to avoid paying claims.

So far we have considered the UK public liability insurance market's response to whether cover for Legionella is provided and whether those insurers excluding cover can actually provide the cover that I believe most insured's would want insurance protection for what I see as a genuine and real risk.

My research then took a different route to determine whether there was an alternative option to relying upon UK public liability insurance policies to cover Legionella losses.

Research - continued

Environmental Impairment Liability policies

With the vast majority of standard UK public liability insurers using wordings utilising the ABI Model Pollution Exclusions of the early 1990s to exclude (or severely restrict cover for) Legionella related losses, I then moved to wider forms of policy covers which I believed may provide a more satisfactory response in the form of Environmental Impairment Liability policies.

These have been developed over the years and in fact by virtue that the UK public liability insurance market excludes non sudden and unforeseen, unidentifiable pollution losses from their wordings, Environmental Impairment Liability policies are available to cover such gradually operating pollution losses.

Perhaps then this is a more suitable way of ensuring that policyholders are provided with the widest wordings and to protect against Legionella losses? These forms of policy would surely step in where the restrictive “sudden” and “identifiable” aspects of the ABI Model Pollution Exclusion left ambiguity and

replace them with comfort around any type of pollution, including the gradual operating cause such as the growth of the Legionella bacteria?

However, upon researching the depth of cover provided by Environmental Impairment Liability policies I found that they too did not respond to Legionella outbreaks to the extent that, unlike some UK public liability insurance policies which can on occasion have a specific Legionella wording as standard, the Environmental Impairment Liability policies have no such wording as “standard”. In fact, a specific request has to be made to insurers for their consideration.

As an example, AIG adopted an approach by describing their exclusion as a Microbial Exclusion which specifically states:

“**Microbial Matter** means fungi or bacterial matter which reproduces through the release of spores or the splitting of cells, including but not limited to, mould, mildew or viruses, whether or not such **Microbial Matter** is living”⁸.

This is quite specific and in context of the Legionella bacteria makes it clear that they would exclude claims arising from Legionnaires’ disease. However upon request, like the bulk of the insurance market, they would write back in cover by the deletion of the Microbial Matter exclusion but only on a case by case basis and as their underwriter stated during my research they would not wish to see this wording removal used as an “upsell”.

Conclusion

Having reviewed the findings from my research I have established that the UK public liability insurance market is generally split into two categories:

those who automatically provide cover and are very specific and clear by having a Legionella section or wording automatically provided (usually property owners/real estate specific wordings);

and those who:

remain silent and do not specifically exclude Legionella and rely on the standard pollution exclusion to ensure no cover is afforded.

Of those insurers in the latter category, most if not all will then add cover back in upon request up to a limit of indemnity, possibly for an additional premium and perhaps with a specific Condition precedent to liability.

There is then an alternative approach to providing wider pollution cover in general by way of an Environmental Impairment Liability wording but only by specifically requesting a Legionella cover extension.

For every specific case then there needs to be an understanding by brokers placing liability insurance in the UK that each insurer's wording needs scrutinising. If there is no specific Legionella wording provided then a request

needs to be made to the insurer concerned to include a specific wording for the highest possible limit of indemnity to ensure that policyholders are adequately protected for a very real risk.

Having undertaken research which commenced with exploring UK public liability insurance policies before moving to Environmental Impairment Liability wordings, I have reached a conclusion that there are several ways of ensuring policyholders are adequately protected. But none of these are ideal given that in the majority of cases there will need to be human input on each and every occasion, rather than having peace of mind that all policies provide a sleep easy form of coverage.

My original question was around whether or not Legionella was either a disease or pollution, and in fact they are both. Does the market then provide adequate cover or is Legionella excluded? In summary, not all of the time, and the ambiguity brought by the uncertainty on how a Legionella outbreak has been caused is not what I would have expected, nor would my clients.

Whilst the ambiguity can be avoided by specifically requesting Legionella cover each and every time a risk is placed, this solution is far from ideal. In fact even by arranging what I would have considered to be a wider more specific form of coverage by way of an Environmental Impairment Liability policy leaves clients exposed to Legionella unless a specific request is made to insurers to include an extension in cover. Yet again far from ideal.

I believe that the insurance sector needs to respond by changing and adopting a new form of ABI Model Pollution Exclusion which automatically provides a Legionella specific cover to avoid all ambiguity and provide the protection that clients require and deserve.

Ultimately maybe the ABI need to review what is now an outdated market norm exclusion and upgrade this in line with 21st Century requirements. Its members then need to embrace change and automatically provide this important cover.

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Appendix

Insurers response to Legionella coverage under UK public liability insurance policies

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
AIG	Commercial Combined	Jun-16	No - Specifically Excludes under Exclusion 9 Pollution	General Pollution exclusion but in addition includes the following very specific wording...this section excludes all liability directly or indirectly arising out of legionella, pneumophilia or any similar or other bacterial respiratory illness howsoever where so ever and when so ever arising or contracted.	Excluded	Can be written back in subject to completed legionella form and possible additional premium
Allianz	Property Owners Select	ACOM1198_1 10.15	Yes within Property Owners Liability Section	NA	£5m or amount stated in schedule whichever the lower	Claims Made Basis
Allianz	Commercial Select (range of products)	LP007	No - Excluded under Pollution or Contamination Exclusion (4.B)	Pollution or Contamination unless caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	Legionellosis Extension can be written back in subject to £1m LOI on claims made basis (Higher limits on request) usually free of charge

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Allianz	Contractors Public Liability	LC006	Yes - Exclusion 4.B is overridden	NA	£1m as standard	Claims Made Basis
Allianz	Contractors Select	LC005	No - Excluded under Pollution or Contamination Exclusion (4.B)	Pollution or Contamination unless caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	Legionellosis Extension can be written back in subject to £1m LOI on claims made basis (Higher limits on request)
Aspen Risk Management	Liability Policy	(09/17)	No - Exclusion 3 applies	Pollution arising directly or indirectly from any "Pollution Hazard" arising... except where the "pollution hazard" results from a sudden, accidental, unexpected and unintended, identifiable incident that takes place in its entirety at a specific identifiable time and place during the Period of Insurance.	Excluded	Can be written back in by endorsement LBSA1051 - Legionella Extension, upon request with limits and charges dependent on risk characteristics
Aspen Risk Management	Business Insurance Policy	(09/17)	No - Section D under the Liability section is specifically Pollution Liability which has an exclusion	...arising out of Pollution but only to the extent that the insured can demonstrate that such Pollution was the direct result of a sudden and identifiable incident.	Excluded	Can be written back in by endorsement LBO47 - Legionella Extension, upon request with limits and charges dependent on risk characteristics

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Aviva	Property Owners (online range)	Property Owners	Yes - Covered by extension automatically under the POL section	NA	£1m as standard	Higher limits upto £5m available upon request subject to UW info and AP. Claims made basis
Aviva	Commercial Combined (fast trade online range)	All product range	No Excluded under Pollution or Contamination Exclusion of PL/ Prods section	Pollution or Contamination other than caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	Can be written back in subject to completed legionella form and possible additional premium
Axa	Commercial & Residential Landlords	Policy Wording 2017	No Excluded under Pollution and Contamination Exclusion of POL section	We will not cover legal liability arising from pollution or contamination, other than caused by a sudden and unexpected incident which takes place at a specific time and place during the period of insurance. All pollution or contamination which arises out of one incident will be considered to have happened at the time the incident takes place.	Excluded	Can be written back in subject to completed legionella form and possible additional premium
Axa	Property Investors Protection Plan	PIPP CLPRO001	Yes - £1m	NA	£1m as standard	

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Axa	Business Combined Insurance	CMB CLGL001P (03/16)	Silent	If legal liability to pay damages in respect of property damage or nuisance or trespass arises from a release or escape of pollutants into the atmosphere or onto land, water, buildings or any structure, the cover will only apply to a sudden incident which happens at a specific time and place during the period of insurance within the policy territories and all property damage or nuisance or trespass will be considered as having occurred at the time of the sudden incident.	To the policy limit under PL	Potentially cover depended on proximate cause and compliance with Legionella Precautions Condition
Barbican Protect	Liability Wording	Primary Liability Wording 1216	No - Excluded under Pollution or Contamination Exclusion (10.13)	Arising out of Pollution unless such Pollution is caused by a sudden identifiable unintended and unexpected incident which occurs in its entirety at a specific time and place during the Period of Insurance.	NA	BPL LP - L016 Legionella Extension can be written back subject to £5m LOI on claims made basis (higher limits available upon request)

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Chubb	Combined Liability	CasPrim_18 05/18	Silent	Section 2 does not apply to...10 Pollution...arising out of the discharge dispersal release or escape of smoke vapours soot fumes acids alkalis toxic chemicals liquids or gases waste materials or other irritants contaminants or pollutants into or upon land the atmosphere or any water course or body of water; but this Exclusion does not apply to Bodily Injury or Damage if such discharge dispersal release or escape is sudden and accidental.	NA	Chubb rely on the silent wording to pick up purely sudden and unforeseen pollution events which can cause ambiguity rather than certainty for policyholders. However head of casualty for Chubb states that they would respond under the policy to all Legionella losses as they treat this is non gradual pollution.
CNA Hardy	Contractor Combined	PRAC1216 Package + Contractors Policy	Yes - Specific extension overriding the pollution exclusion	NA	£1m as standard	Claims Made Basis
CNA Hardy	Commercial Combined (fast trade online range)	PRAD0118 Package + Manufacturing Policy	Yes - Specific extension overriding the pollution exclusion	NA	£1m as standard	Claims Made Basis

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Fusion	Property Owners	Commercial Property Investors	Yes within Public/ POL section	NA	£1m as standard	Higher limits upto £5m available upon request subject to UW info and AP. Claims made basis
Fusion	Combined	V1	No - Excluded under Pollution/ Contamination Exclusion	Pollution or Contamination other than caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	FUSCD183 Legionellosis Extension can be written back in subject to £1m LOI on claims made basis (higher limits on request)
Fusion	Liability & Construction	FIS/L&C/ Aug16	No - Excluded under Pollution/ Contamination Exclusion	Pollution or Contamination other than caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	FUSCD183 Legionellosis Extension can be written back in subject to £1m LOI on claims made basis (higher limits on request)
Generali	Combined Liability	FL07200	No - specific cover has to be requested	Pollution or contamination caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place.	Excluded	Specific requested required to include Legionella Extension Endorsement

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Hiscox	Business Wording	WD-PROF-UK 05/17	No - excluded under Pollution exclusion	Pollution unless caused by a sudden, identifiable, unintended and unexpected incident which occurs in its entirety at a specific time and place during the Period of Insurance	Excluded	May consider adding upon request
MS Amlin	Combined	Multiperils V6	No - Excluded under Exclusion 4	A sudden, unexpected and unintended pollution that takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	May consider adding upon request
NIG	Commercial Combined	NIG100603K /03/18	No - excluded under Exclusion 9	legal liability in respect of Pollution or Contamination, other than that caused by a sudden identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during any one Period of Insurance.	Excluded	May consider adding upon request
NIG	Essential Property Owners	NIG100728J/ 04/18	Yes - Pollution exclusion is superseded by the additional Section 4 A coverage - Specifically the Legionellosis Section	NA	Upto the amount stated in the schedule (Usually £1m)	Claims Made Basis

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
QBE	Contractors Combined Liability	PCCM010119	Yes - Definition 11.24 Pollution specifically excludes Legionella from the pollution exclusion so it provides positive cover for Legionella	NA	Upto the amount stated in the schedule (Usually £1m)	Claims Made basis
QBE	Commercial Combined	PCCP071015	Yes - Definition 26.129 Pollution specifically excludes Legionella from the pollution exclusion so it provides positive cover for Legionella	NA	Upto the amount stated in the schedule (Usually £1m)	Claims Made Basis
RSA	Property Owners	AR Nov 12 Deluxe	Yes - Section 4 Legionellosis Liability	NA	Upto the limit of indemnity under the POL section	Claims Made Basis
Tokio Marine	Commercial Combined	Commercial Combined (September 20017) (Feb18 update)			Upto the limit of indemnity under the PL section	Claims Made Basis

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
Tokio Marine	Property Owners	Property Owners (September 2017) (Feb2018 Update)	Yes - Specific extension overriding the pollution exclusion	NA	Upto the limit of indemnity under the PL section	Claim Made Basis
Travelers	Commercial Select	TRV054-02.14	No - excluded under Exclusion 6	Pollution or contamination....unless caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	
Travelers	Property Owners	TRV059-03.18	No - excluded under Exclusion 6	Pollution or contamination....unless caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	
XL Catlin	Property Owners	UK Real Estate V2	No - excluded by Pollution exclusion	Pollution or contamination other than where such seepage, pollution or contamination is caused by a sudden unintended and unexpected happening during the Period of this Insurance	Excluded	

Appendix - continued

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording	Limit of Indemnity	Notes
XL Catlin	Commercial Combined	UK Package Wording V7	No - excluded by Pollution exclusion	Pollution or contamination other than where such seepage, pollution or contamination is caused by a sudden unintended and unexpected happening during the Period of this Insurance.	Excluded	May consider adding upon request
Zurich	Public & Products Liability	ZCYL1ALC.17 (500679017) (04/18)	No - excluded by Pollution exclusion	This policy excludes all liability in respect of Pollution or contamination other than caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.	Excluded	May consider adding upon request
Zurich	Real Estate Wording	ZCYP1.13 PI1/C (500697013) (05/12)	Yes - Specific extension overriding the pollution exclusion	NA	Upto the amount stated in the schedule (Usually £1m)	

Appendix

Insurers response to Legionella coverage under UK Environmental Liability insurance policies

Insurer	Product	Cypher	Legionellosis Liability Included in wording	Exclusion Wording
AIG	Pollution Legal Liability	UK-PLL-01-082016	No	3.14 Microbial Exclusion - arising from Microbial Matter in, on or within any building or other structure. This exclusion does not apply to Clean-Up Costs for the remediation of soil and groundwater.
Chubb	Environmental Liability Insurance Policy	EnvP_11 Environmental Protect	No	Excluded under Fungi definition
Liberty	Environmental Damage Policy	LEDPOL125-04-18	No	Exclusion 5 Biological Contaminants in Buildings & Structures
Liberty	Contractors Pollution Liability	CPLCMP110-07-16	No	Definition 25 Pollution Condition excludes by the use of the words "...escape of pollutants... providing such are not naturally occurring"
QBE	Environmental Liability Insurance Policy	ENVUK032017	No	4.11 Microbial Exclusion - all clean-up costs, loss, environmental damage costs or defence costs arising out of any microbial matter
RSA	Pollution Legal Liability	Pollution Clean-Up & Liability (02-18)	No	Biological Contaminant is excluded from the definition of Pollutants

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