



Health and Social Care

NEWS AND ADVICE FOR HEALTHCARE PROFESSIONALS
FROM BIRKETT LONG

Avoid making a meal out of allergen information



October 2011 saw new EC regulations that increased the amount of allergen information on both non-prepacked and prepacked food.

Those regulations (the EU Food Information for Consumers) came into force on 13 December 2014, giving those in the food industry three years to prepare.

A Unilever Food Solutions survey in July 2014 found that 53% of care providers had no idea about the new regulations - a significant number considering the short time period to implementation.

Care homes fall into the category of providers who serve "non-prepacked food" and must therefore provide detailed information on allergenic ingredients in the food they serve.

This can be either in writing, for example on the menu, or verbally, such as explaining the allergens contained in each meal before taking an order.

Providers that owe a duty of care to those to whom they serve food must put in place processes to ensure the allergen information is recorded and reported in line with the regulations, as well as be mindful of requirements in other legislation relating to adult mental capacity. For example, where the individual cannot make a safe dietary choice, the caregiver should be able to recognise that and give

the individual food that is safe for them to eat.

Whether or not the individual has an allergy is irrelevant. The regulations state that allergen information, or the place where such information can be found, should be easily accessible, visible and legible for all to see. The 14 allergens covered include: eggs, milk, shellfish, molluscs, fish, peanuts, sesame, soybeans, sulphur dioxide, nuts, cereals containing gluten, celery, mustard and lupin. Expert advice and training can be accessed for free at www.food.gov.uk.

Non-compliance with the regulations is serious! It is deemed to be a failure in public health and not only carries an unlimited fine, but is also a criminal offence.



Claire Hunt
01206 217623
claire.hunt@birkettlong.co.uk

Winter is on its way

Be prepared!

Every year, the onset of cold weather brings a raft of problems for property owners and occupiers. This risk guidance offers you practical advice from Brents Insurance for some of the problems they most commonly encounter.

Burst pipes

The cost and inconvenience caused by a burst pipe can be considerable. Just a small fracture can release gallons of water causing major damage. These obvious steps are often overlooked but they can substantially reduce the chance of suffering losses:

- Make sure the boiler and heating system is serviced regularly and check that the thermostat is working correctly
- Make sure you know where to turn off the water supply
- Check the insulation on your water pipes and cold water tank - those in the attic or other vulnerable spaces should be lagged or similarly protected
- Make sure any external taps are turned off and any hoses are disconnected

If you discover a frozen pipe, don't wait for it to burst! Turn off your water supply and slowly thaw the affected pipe by introducing gentle heat to the area, such as with a hair dryer, space heater, hot water bottle. Don't attempt to thaw the pipe with

a blow torch or other open flame. If a pipe does burst, turn off the water supply at the stopcock, use containers to catch as much of the excess water as possible, and call a professional to effect a repair. If you think that electrics have been affected by water, don't use them until a qualified electrician has carried out a safety check.

Devices are available which can detect excessive water flow and either send a warning or automatically turn off the water. Leak detection systems send warnings to a designated person enabling them to take appropriate action and mitigate any damage.

Temporary heaters

Should your main heating system fail during the winter months, we recommend that electric convector or fan-assisted heaters with thermostatic cut-outs are used as a temporary measure.

Portable heaters should be sited clear of combustible materials and protected against the possibility of being knocked over or moved accidentally. Temporary heaters should not be left unattended for long periods or used when the building is unoccupied, and should never be moved when switched on.



Workers' travel time

Updates under the working time and NMW regulations

Many employers in the health and social care sector employ workers and carers who do not have a fixed or regular place of work, but who travel each day from home to a place of assignment, such as at a client's own home.

A recent Spanish case confirmed that workers without a fixed or regular place of work can count their travel time from home to their first appointment as working time for the purposes of the Working Time Regulations 1998 (WTR). However, despite the close overlap of definitions contained within the WTR and the National Minimum Wage Regulations 2015 (NMW), the European Court of Justice also confirmed

that paying workers for the time used to travel between home and place of work or assignment is still a matter for national law. The NMW regulations specifically state that travelling time should only be considered as work when it is not between home and place of work.

So, whilst home to work travel for such peripatetic workers is now likely to be counted as working time for the purposes of the WTR, as yet it does not have to be paid for!

Tim Ogle
01245 453840
tim.ogle@birkettlong.co.uk

Keeping pathways clear

You have a duty of care to ensure that any staff, service users or visitors to your organisation are safe.

Unfortunately, slips and trips do happen, particularly when there is ice and snow on the ground. You need, therefore, to take actions that are considered 'reasonable in the circumstances'. This can include ensuring that entry and exit routes are kept free of anything that may cause a person to slip, and taking preventative measures such as clearing and gritting paths.

It is not necessary to ensure that each and every available path is immediately cleared, as long as there is at least one safe route available to access the building.

Clearly, the timing and extent of any snow fall is relevant. Whilst it might not be reasonable for paths to be cleared during heavy falls of snow, the longer the snow and ice remains on the ground after the fall has ceased, the greater the likelihood of it being considered reasonable for some attempt to clear it to be made.



For advice on insurance related matters call Brents Insurance on 01277 223344
www.brentsinsurance.co.uk

redefining lawyers

The healthcare sector is full of facts and figures. In a typical day, Tracey might help sell a care home for several million or do some 'hand holding' for a partnership with just a handful of people. Regardless of the numbers involved, every client gets Tracey's dedicated attention. Oh, and she's pretty good at adding up the numbers on her golf scorecard too!

It's not just about knowing the law.

Tracey Dickens
01206 217326
tracey.dickens@birkettlong.co.uk





Building and refurbishment projects

New regulations introduce significant changes

The Construction (Design and Management) Regulations 2015 came into effect on 6 April 2015 making sweeping changes to previous CDM regulations. The former exclusions for small projects no longer apply, which means that care homes and professional practices, such as GP surgeries, will be subject to the regulations should they undertake any building project.

CDM 2015 places more responsibility upon the client (such as the care home operator or the GP partnership) to ensure that the construction work can be carried out safely.

The regulations state that the client must ensure:

1. arrangements are put in place before work commences and are reviewed throughout the life of the project
2. suitable pre-construction information is provided to designers and contractors
3. the sole or principal contractor prepares a construction phase plan before construction work begins
4. where there is more than one contractor, the principal designer prepares the health and safety file.

Most projects will require a principal designer and principal contractor, who must be appointed before the construction phase begins. Should the client decide not to appoint a principal designer, this role and its responsibilities will be assigned automatically to the client.

The Health & Safety Executive has to be notified of projects where construction work is to last longer than 30 working days and where more than 20 workers will be on site at any one time, or where construction work is to exceed 500 person days.

Notification has to be made by the client rather than the principal designer.

The principal designer has to:

1. ensure the client knows of their duties under CDM 2015

2. when designing, take into account the principles of prevention and the pre-construction information received from the client
3. prepare a design that eliminates foreseeable risks to health and safety, not only in construction but in using, cleaning and maintaining the building thereafter

The principal contractor has to:

1. follow the structure of CDM 2015
2. plan, manage and monitor the construction phase so that construction work is carried out without risk to health and safety
3. carry out the construction works, taking into account the principles of prevention
4. create and maintain the construction and phase plan
5. liaise and consult with workers on the steps being taken to ensure health and safety

Other parties engaged on the site have duties relating to health and safety too. These are considerably more detailed and anyone working on a site must be familiar with them. It should be remembered that CDM 2015 is enforced by the Health & Safety Executive by way of criminal proceedings against those in breach.

For advice on this or any aspect relating to the legal side of your construction project, contact Peter Allen.



Peter Allen
01245 453813
peter.allen@birkettlong.co.uk

BIRKETT LONG LLP

PHOENIX HOUSE
CHRISTOPHER MARTIN ROAD
BASILDON SS14 3EZ

T 01268 244144

ESSEX HOUSE, 42 CROUCH STREET
COLCHESTER CO3 3HH
T 01206 217300

NUMBER ONE, LEGG STREET
CHELMSFORD CM1 1JS
T 01245 453800

E HEALTHCARELAW@BIRKETTLONG.CO.UK
WWW.BIRKETTLONG.CO.UK/LEGAL

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