

CONTAMINATED LAND
INSPECTION STRATEGY

ENVIRONMENTAL PROTECTION ACT 1990, PART II A

MAY 2001

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CHAPTER 4

PROCEDURES

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- 4.0 This chapter provides details of how the Council will deal with issues relating to information gathering, handling and assessment, and also responding to complaints. The internal management arrangements and standards to be expected from the residential and business community of the District are outlined.

The flowchart at Appendix IV illustrates the internal procedure to be followed in the investigation of a site. The register of land uses referred to in the flowchart appears at Appendix VI. A list of issues to be addressed at sites with a contaminative or potentially contaminative use is shown at Appendix V. An initial risk assessment form is given at Appendix VII which will lead to a more detail risk assessment following an initial priority ranking derived from this starting point.

4.1 **INTERNAL MANAGEMENT ARRANGEMENTS FOR INSPECTION AND IDENTIFICATION**

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Within MHDC the Environmental Health Services Department has responsibility for the implementation of Part II A of the Environmental Protection Act 1990. The Head of Environmental Health Services will oversee the Council's responsibilities to deal with land contamination. The Lead Officer for implementing this inspection strategy is the Environment Team Manager assisted by Technical Officers with a specialism in contaminated land issues.

The elected members of the Council will be consulted and involved in agreeing the contents of the strategy. Elected members will also be advised of any plans to designate Council owned land or land where the Council is the appropriate person or where an "orphan" site must be dealt with by the Council.

The Environment Team Manager will be responsible for negotiation with all "responsible persons" in seeking to achieve the voluntary remediation of land. Where it becomes necessary to serve a remediation notice this will be signed by the Corporate Director.

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4.2 **CONSIDERING LOCAL AUTHORITY INTERESTS IN LAND**

As outlined in the Inspection Timetable (Appendix III) the investigation of Council owned land will be carried out in tandem with the prioritisation of areas of highest population density. Within each town or village the Council owned land will be considered first.

4.3 **INFORMATION COLLECTION**

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Information gathering and assessment is required in four categories:-

- i) Information of actual harm or pollution of controlled waters;
- ii) Information on receptors;
- iii) Information on the possible presence of contaminants;
- iv) Other relevant information

Some of the resources identified (many of which are not yet available) are listed below.

| | <u>Document/ Information Source</u> | <u>MHDC Position</u> | <u>Use</u> |
|----|--|--|---|
| 1. | Historical Maps | Digital maps to be purchased (O.S. dated back to 1883). (Landmark) | Identify sources |
| 2. | Historical Land Use Data | Digital overlays to relate to O.S. maps (Landmark) | Identify sources |
| 3. | Geological Maps | Digital overlay data to be purchased from British Geological Survey (B.G.S) | Highlight potential sources and pathways |
| 4. | Hydrogeological Maps | Groundwater vulnerability data available from Environment Agency. Digital overlay data to be purchased from B.G.S. | To identify high risk areas and receptors / pathways. |
| 5. | Soil Maps | A soil map covering the South Worcestershire region will be purchased from the Soil Survey & Land Research Centre | To identify sources and pathways. |
| 6. | Source Protection Zones | Groundwater zones with special protection designation by the Environment Agency. Included in digital overlay package from Landmark. | Risk Ranking of receptors (controlled waters) |
| 7. | Environmental Services Records | i) Authorised processes under Environmental Protection Act 1990, Part B, ii) Complaints / Pollution Incident records on property files, iii) Liaison work with Environment Agency and data sent to the Council, e.g. applications for discharge consent, iv) Brownfield land identified for possible redevelopment All information currently held. | Base level information on the existing condition of the District. |

| | <u>Document/ Information Source</u> | <u>MHDC Position</u> | <u>Use</u> |
|-----|--|--|---|
| 8. | Planning Services Information | i) Local Plan land records, ii) Land use planning records including sites where remediation has been undertaken or remains a requirement. | Identification of known information of contamination. |
| 9. | Waste Management Licences | Information available from Environment Agency who hold site records. | Identify sources of contamination. |
| 10. | Register of Closed Landfill sites | Information available on all main sites. No information held for area formerly administered by Leominster D.C. Environment Agency to be approached for information they hold. | Identify sources of contamination and areas within 250 m. of sites potentially at risk. |
| 11. | County Archive | To be contacted in particular relation to records of land use prior to the end of World War II when Town & Country Planning legislation was enacted. | To identify sources of contamination. |
| 12. | Information from Major Land Owners | i) Malvern Hills Conservators ii) Ministry of Defence iii) Madresfield Estate iv) Town Councils All such land owners will be consulted and requested to assist in compiling records. | To identify sources of contamination and receptors. |
| 13. | Parish Councils, Civic Groups, Chamber of Trade & Commerce, Historical Societies | All relevant groups who are likely to be sources of local knowledge which have information not recorded or otherwise known will be contacted. | To identify sources and receptors. |
| 14. | Libraries, Local Press & Radio. | Books concerning the history of the District and a search for local knowledge / information via the media will be utilised in order to refine or supplement the knowledge of land uses. | Identify possible sources of contamination |

| | | | |
|-----|--|--|--|
| 15. | The Special Wildlife Sites Register | To ask for the assistance of English Nature (register currently undergoing revision) | To identify sensitive wildlife sites. |
| 16. | Sites and monument records Worcestershire County Council | Advice will be sought from English Heritage and the County Archaeologist on a site specific basis | Identify sensitive sites and buildings to be protected and potential other receptors |
| 17. | Agricultural Land Classification surveys from MAFF | Request will be made for details of problem areas identified on an area by area basis as the inspection programme proceeds | Identify potential areas of land which may be classed as contaminated land |

4.4. **INFORMATION MANAGEMENT**

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The Council's Planning Services Department currently has a G.I.S. (Geographical Information System) using "Arc View". It is proposed that all digital information including mapping and overlays will be in Arc View format within the Environmental Health Services Department.

The system will be used to correlate all information and to relate sources, potential sources, pathways or potential pathways and any defined receptors. The G.I.S. will be linked into the existing "Flare" databases to enable statistical information to be collated and reproduced as required for reporting and comparison needs.

4.5. **COMPLAINT PROCEDURES**

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Any complaint received regarding contaminated land will be dealt with in the same way as complaints relating to other issues as specified in the Environmental Health Services Business Plan (locally set performance indicators). The current standards are:

- i) letters replied / acknowledged within 10 working days,
- ii) respond to Environmental Health Service requests within 2 working days of receipt (letters to be answered within 10 working days).

All complaints will be logged and recorded and complainants will be kept informed of progress towards resolution and the ultimate findings and conclusions of the investigation.

Complaints concerning contaminated land issues can no longer be dealt with under the statutory nuisance provisions of the Environmental Protection Act 1990 (previously S.79(1)(a) any premises (including land) or 79(1)(e) any accumulation or deposit). The legislation has been amended to provide that no land in a contaminated state can now be a statutory nuisance (Environment Act 1995, Sch.22.para.89). This

has now given rise to a potential loophole where the local authority is unable to act. If land has pollutants on, in, or under it but is not a contaminated land site (i.e. having the significant Pollutant Linkage of Source – pathway – receptor) the Council will now be powerless to take any formal action.

Whilst every effort will be taken to resolve issues on land where the Council is still able to act there are also some obstacles to a speedy resolution of problems:-

- i) Proof of a viable significant Pollution Linkage is essential before designation as “contaminated land”. This may well take time and resources to determine and is likely to require the assistance of a specialist consultant.
- ii) The requirement for the enforcing authority to make “reasonable inquiry” (not defined in any guidance) to identify the original polluter of the land.
- iii) The requirement for prior consultation with all interested parties before designation of land as contaminated land.
- iv) The likely timescale which will be involved in making every effort to secure voluntary remediation of the land.
- v) The minimum period of three months following designation of the land and the service of a remediation notice.

The statutory guidance allow for conditions iii) and v) to be waived in extreme cases but not i), ii) and iv).

4.5.1 **CONFIDENTIALITY**

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The Councils existing policy on confidentiality will apply to contaminated land complaint investigations. All complainants will be asked to supply their name, address and telephone number. Complaints received anonymously will still be investigated although obviously no feedback on the Councils decision making process and final determination will be possible.

The only circumstances where complainant details would be released would be:-

- i) with the express written permission of the person(s) bringing the complaint and then only when there is a justifiable reason for passing details outside the Council.
- ii) where an appeal has been brought against a remediation notice and an adverse health effect to the complainant was a deciding factor in the service of the notice.

4.5.2 **VOLUNTARY PROVISION OF INFORMATION**

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Information brought to the Council relating to land which:-

- a) is not directly affecting the health of the person(s) or families,
- b) does not represent a significant risk of adverse health effects to the person(s) or families, or
- c) does not affect their property or buildings,

will not be treated as a complaint.

Such information will be regarded as “supplementary” and entered onto the Councils data base. The information may or may not be acted upon following an assessment of its importance. There will be no obligation for the Council to keep the supplier of the information informed of any actions taken although this may still be done from the perspective of “good practice”.

4.5.3 **NECDOTAL EVIDENCE**

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Anecdotal evidence may sometimes be very important in filling “gaps of knowledge” regarding a site. The old village sage may hold the vital final “piece of the jigsaw” to enable further progress with a site investigation.

All such evidence will be recorded but will not be acted upon in the designation of a site as contaminated in the absence of robust scientific evidence. The Environment Team Manager in consultation with the Head of Environmental Health Services will decide what, if any, further investigation will be undertaken following the provision of this and other information.

4.6 **RISK ASSESSMENT**

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All information received by the Council concerning substances in, on or under the ground that may cause harm or a significant risk of harm will be evaluated using current and subsequently released governmental guidelines.

Following an initial preliminary risk assessment ranking using the form at Appendix VII a more detailed risk assessment will be undertaken.

4.6.1 **CLEA AND ICRL GUIDELINES**

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Proposed guidelines known as CLEA (Contaminated Land Exposure Assessment) are long overdue from the DETR. Until these are available the Council will use the ICRL (Interdepartmental Committee on Redevelopment of Contaminated Land) standards. The most widely used and accepted current standard of assessment is ICRL 59/83 (2nd Edition, July 1987). This provides “trigger” and “action level” standards for a range of defined contaminants.

4.6.2 **RISK ASSESSMENTS FOR OTHER SUBSTANCES**

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It may be necessary for the Council to make risk assessment decisions concerning substances not covered by the ICRL or CLEA models. Reference will therefore be made to other standards such as the Occupational Exposure levels of the H.S.E (Health & Safety Executive) or environmental action level standards of the WHO (World Health Organisation).

Specialist advice and guidance will be sought in all such instances from independent consultants, the Environment Agency’s National Groundwater and Contaminated Land Centre and other expert advisors such as Occupational Health advisors.

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4.6.3 **RISK ASSESSMENT FOR CONTROLLED WATERS** [*Back to Index*](#)

The Environment Agency as regulator for controlled waters will be consulted on all risk assessment issues. This will involve incidents where controlled waters are the 'receptor' in a pollutant linkage and where site development may have any other adverse impact (e.g. flow disruption) of controlled waters. It is anticipated that risk assessments and any consequent remediation will be carried out in accordance with the guidance contained in "Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources". (Env.Agency Research & Development Publication No. 20, 1999).

Consultation will be made on all issues relating to controlled waters with the contaminated land specialist at the Environment Agency's regional offices and at its National Groundwater and Contaminated Land Centre in Solihull.

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