

New Forest District Council Contaminated Land Responsibilities SUMMARY November 2001

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The effective management of issues associated with the contamination of land is an important responsibility now shared between the Environment Agency and Local Authorities. The New Forest District Council (NFDC) has a duty to cause its area to be examined for the purpose of identifying contaminated land. Whilst undertaking its first such review the NFDC will take a strategic approach as required by the Environmental Protection Act 1990 Part IIA. The strategy has been prepared and is now subject to consultation and the adoption process.

Map of the District



Definition of contaminated land under Part IIA, Environmental Protection Act 1990

In the context of the act contaminated land is land which appears to the local authority to be in such a condition, by reasons of substances in, on or under the land, that significant harm is being caused (or there is a significant possibility of such harm being caused, or that pollution of controlled waters is being, or is likely to be caused). A summary of potential contaminants found through human activity in our environment is given in table C in the strategy.

Regulatory role of the New Forest District Council

The primary regulatory role under the act rests with local authorities, extending their functions under the statutory nuisance regime and complimenting their role as planning authorities. As a local authority the NFDC has five main tasks under the act. These are:

1. To cause the district to be inspected for contaminated land from time to time
2. To record prescribed information about contaminated land in a public register
3. To establish who should bear responsibility for the remediation of land associated with contamination
4. To decide, following consultation, what remediation is required and ensure it takes place through agreement or, where necessary, enforcement
5. To determine who should bear what proportion of the liability for meeting remediation costs

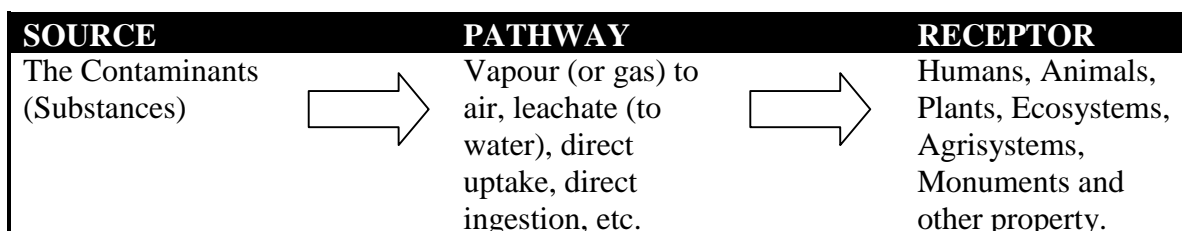
Regulatory role of Environment Agency

A core element of the NFDC strategy for contaminated land will be to work closely with the Environment Agency. The Environment Agency has four principle roles with respect to contaminated land under the act. These are:

1. To assist local authorities in identifying contaminated land, particularly in cases where water pollution is involved
2. To provide site specific guidance to local authorities on contaminated land
3. To act as the enforcing authority for any land designated as a special site
4. To publish periodic reports on contaminated land

Principles of pollutant linkages and the assessment of contamination

To correctly assess land as being contaminated and in need of remediation (protective action), a pollutant linkage has to be determined. A pollutant linkage is a link determined between a pollutant source and a receptor through a pathway.



A risk assessment is undertaken by initially establishing the type, form and concentration of a pollutant, assessing this data against published nationally accepted guidelines and standards, and finally determining if harm to a receptor is likely, or has occurred. If a pollutant linkage has been confirmed and it is demonstrated that a receptor is, or may be, harmed, the Local Authority must conclude that the land with the source contaminants is 'contaminated'. The authority must then ensure that appropriate remediation is undertaken.

Requirements for strategic approach

A strategic approach to the issues of land contamination is not only essential at a local level but is equally important for the coordination of management practices nationally, by the Environment Agency. In taking on contaminated land responsibilities local authorities have to examine the resources required, what resources are available and how to undertake the duties in the context of 'bestvalue – best practice'. A strategic approach is also essential to ensure that the NFDC meets its obligations for contaminated land in a proper and efficient manner. The NFDC Contaminated Land Strategy is now available in draft form for consultation. As stated it is a statutory requirement to produce and adopt such a document in a form that will meet with the approval of DEFRA through the offices of the Environment Agency.

Information on the possible presence of contaminants – AN OVERVIEW

The possible presence of contaminants in land contained in the district is being determined from historic mapping, land use data from rating value information, and information from the Environmental Protection Section and the Environment Agency. Information specific to petrochemical refining and authorised processes generally will be examined for indications of potential land contamination. A survey of petrol stations and the sourcing of information concerning the decommissioning of petrol tanks will be undertaken in conjunction with Hampshire County Council. Previous planning applications involving the presence of contaminated land will be examined and site inspections conducted to determine the effectiveness of receptor protection at the respective locations.

- There are some 1224 sites potentially contaminated in the district and identified by a survey conducted by Landmark Ltd in their national review of historic Ordnance Survey maps.
- At the time of writing there are twenty-four Part A and thirty-two Part B authorised processes.
- There are over one hundred sites where petroleum activities are known to exist, or have previously existed.
- There are three significant areas of landfill activity where the Council has been a stakeholder'. (Further investigation of previously remediated and monitored sites will be required to determine the effectiveness of receptor protection).
- There are around fourteen sites with specific potential contaminant profiles (and a variety of stakeholders) including a major oil refinery, former scrap yards, foundries, engineering works, saw mills, armaments and military installations (airfields, ports etc), and a power station. Some of these sites are subject to Environment Agency scrutiny.
- There may be a few water quality problems associated with septic tank installations and sewage treatment works that may fall outside of the direction of the Environment Agency or other current legislation.
- There are a few intense agricultural activities, which will need to be assessed for potential risks.

- There is a possibility of a number of poorly maintained heating oil tanks that require locating and assessing.

All of the data associated with such sites is under review and collation in conjunction with the strategy development. It seems that contaminated land pollutants in the district can be broadly classified as those that follow pathways in soil, water, geological strata and air with implications for human health and ecosystems. Despite the districts image of picturesque landscape and rural setting there is, in a collective sense, a potential threat to sustainability without the strategic management of contaminated land.

Environmental Issues:

The district may have a major industrial base in the context of the oil industry but the environmental issues relating to general development in the twentieth century, and conversely the conservation of heritage and the protection of natural resources, represent very important concerns held within the community. The implementation of the authority's contaminated land strategy and its association with Local Agenda 21 reflect the priority given to 'Environmental Issues'.

Enforcement:

In the execution of its duties the authority will undertake action with the desire for agreement by the parties involved, but it will issue notices, declarations and statements without prejudice where necessary and appropriate. The enforcement protocol will comply with the principles of the 'Enforcement Concordat'. This is a code of practice drawn up by central and local government in consultation with consumer and business groups. It sets out a blue print for fair, practical and consistent enforcement.

Land contamination issues are regarded by the NFDC to be matters of public interest. A 'suitable for use' approach to remediation, focusing on 'risks' and the appropriateness of 'remediation schemes', will be fostered during the exercise of the NFDC's statutory duties.

Public access to information:

The strategy and the register of contaminated land for the district are available for public inspection. To facilitate this process the strategy will be accessible on the NFDC website and an electronic version of the register may be prepared for future access on the Internet. At all times during and after the strategy development there will be a policy of transparency. Interested persons in business, land owners, collective groups and associations, will be identified, contacted and invited to comment. Advice concerning the Authority's new responsibilities will be available to those in the community who are affected by the legislation, and their assistance will be sought in the exercise of the Authority's duties.

The timetable and activities to be undertaken following the drafting of the strategy

The strategy identifies activities that the Council must now address. The anticipated timeframe and a list of activities is summarised in the following table.

TABLE 1.1 ACTIVITIES FOLLOWING THE DRAFTING OF THE CONTAMINATED LAND STRATEGY

ITEM	COMMENT	TIMEFRAME
<u>1. Strategy Consultation</u>	Send full document to statutory consultees. Send extract plus details of internet access to other stakeholders.	November – December 2001
<u>2. Strategy Adoption</u>	Council review and acceptance by members	January 2002
<u>3. Determine and Procure Human Resources</u>	Allocate officer(s) and appoint CLR6 person or develop partnerships.	September 2001 – February 2002
<u>4. Procure Desk Top Equipment</u>	Setup a workstation with GIS, various required datasets and a Contaminated Land working database (integrated with site screening software). Train staff to operate the system.	September 2001 – February 2002
<u>5. Procure Site Investigation Eqpt/Services</u>	For landfill gas, soil and water sampling.	September 2001 – February 2002
<u>6. Determine & Implement Planning Guidance</u>	Prepare and publish a planning advice note on contaminated land development procedures.	February - May 2002
<u>7. Enforcement Protocol for PartIIA</u>	Prepare enforcement documentation - integrate into procedural manuals of Environmental Health - Environmental Protection Group.	February - May 2002
<u>8. Determine & Implement Environmental Reporting Strategy</u>	Content from GIS tools, review requirements and charge rate for the service.	February - May 2002
<u>9. Site Data Collection</u>	Procurement of datasets (e.g.Landmark), additional datacapture with help of other sections and outside agencies.	September 2001 – February 2002
<u>10. Site Prioritising in accordance with CLR6</u>	Use bespoke software and CLR6 person to categorise sites and report on/quantify further action.	April 2002 onwards
<u>11. Action Category 1 Sites (&Special Sites)</u>	Further investigation and/or remediation.	April 2002 onwards
<u>12. Action Category 2 Sites</u>	Further investigation and reassessment.	April 2002 onwards
<u>13. Monitoring Cat 2,3,4 Sites</u>	Further investigation and reassessment.	April 2002 onwards
<u>14. Review Strategy / Review Resource Requirements</u>	What is the progress of the inspection process? Are the resources adequate and appropriate?	January 2003 AND ANNUALLY

FURTHER NOTES ON TABLE 1.1

1. Activities 9 to 13 continue for approximately five years to complete the initial statutory 'inspection of the district'. This exercise is required to be repeated from time to time but will be a less formidable task in the future with the benefit of the initial exercise and its outcome.
2. Other matters for consideration:
 - a) **PROCUREMENT OF A TECHNICAL LIBRARY**
(Guidance docs & other references)
 - b) **SOFTWARE UPDATES AND DEVELOPMENT**
(To assimilate ongoing technical improvements and the central government policy for electronic formats and provision of information)
 - c) **STAFF TRAINING AND DEVELOPMENT**
 - d) **COMMITMENT TO APPROPRIATE EXPERTISE**
(To satisfy government and professional recommendations e.g. CLR6, SILC/IEMA)

Risk assessment should be conducted by a person with an appropriate degree and at least three years of experience undertaking risk assessment on contaminated land. A categorising table is provided in this report for guidance on site screening. It could be beneficial to consider and develop partnerships to facilitate resource procurement, reviewing commitments as the full extent of the undertaking unfolds.

The CLR6 references are to the following document:

Department of the Environment: Contaminated Land Research: CLR (Report No 6).
Prioritisation and Categorisation Procedure for Sites which may be Contaminated.