

REPORT TO: Cabinet Member – Environmental
DATE: 29 September 2010
SUBJECT: **CONTAMINATED LAND INSPECTION STRATEGY REVIEW**
WARDS AFFECTED: All
REPORT OF: Peter Moore
Environmental & Technical Services Director
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Environment Section
Tel 0151 934 4030
**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To seek approval of the Cabinet Member – Environmental for the revision of Sefton Council's Contaminated Land Strategy. The report outlines the principal alterations made to the previously approved strategy and details the progress made in dealing with contaminated land in the Borough.

REASON WHY DECISION REQUIRED:

The Council is required to have a Contaminated Land Inspection Strategy in order to discharge its statutory functions relating to contaminated land.

RECOMMENDATION(S):

That the Cabinet Member, Environmental approves the revision of the Sefton Council Contaminated Land Inspection Strategy document with the content of appendix 2 to this report.

KEY DECISION: No
FORWARD PLAN: Not Appropriate
IMPLEMENTATION DATE: After the call in period expires

ALTERNATIVE OPTIONS:

None. Sefton Council is obliged under statute to have a contaminated land inspection strategy.

IMPLICATIONS:

Budget/Policy Framework: Dealing with the legacy of contaminated land is a Corporate Objective

Financial:

<u>CAPITAL EXPENDITURE</u>	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal: No implications this year

Risk Assessment: No implications this year

Asset Management: No implications this year

CONSULTATION UNDERTAKEN/VIEWS

Merseyside Environmental Advisory Service

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities		✓	
3	Jobs and Prosperity		✓	
4	Improving Health and Well-Being	✓		
5	Environmental Sustainability	✓		
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy		✓	
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Cabinet Member Environmental Report 24th October 2007

BACKGROUND:

1. Sefton Council's Contaminated Land Inspection Strategy was first published in June 2001 in response to the requirements laid out in Part 2A of the Environmental Protection Act 1990.
2. The strategy was revised in December 2002 to reflect the changes in legislation and guidance and reflect the progress made. This document was reported to the Cabinet Member in June 2003. As required by the legislation a second review was undertaken in October 2007 to report progress and update sections of the document as appropriate since the first review in December 2002.
3. The priorities and procedures set out within the strategy have not been substantively revised.
4. Further reviews of the Strategy will take place on a three yearly cycle. On-going progress with implementation is managed and monitored on a quarterly basis through the performance management mechanism. This is reported through biannual performance monitoring.
5. In addition to Part 2A, there are other regimes through which the remediation of contaminated land is achieved. Indeed, the planning process continues to be the primary mechanism by which contaminated land is dealt with. Planning conditions are attached to the planning permission and compliance with these requirements is closely monitored during the development process. Close working between the Environment Section and colleagues in Planning Development Control is an essential element of this process which has resulted in fifty-two sites, identified as high priority within the Part 2A inspection process, being remediated and removed from the inspection list;
6. The Council's contaminated land team has also successfully used the Environmental Damage (Prevention and Remediation) Regulations 2009 to secure remediation of land affected by recent accidental contamination.

Summary of Strategy Progress

7. All modules in the Contaminated Land Information Management system (CLIMS), a geographical database used to identify historic land use and potential contamination risk, have been completed and all modules are integrated and fully functional.
8. Collection of all core data sets for input into CLIMS has been completed. This process is also on-going as new information comes to light;

9. Efficient liaison and information exchange mechanisms have been established with key partners;
10. The CLIMS Analysis module and information obtained from planning application reports has produced a list of 8591 sites that require 'further consideration'. These 'sites' are areas of land where contaminative uses may have taken place in the past and where contamination may have resulted from these activities. These comprise 1116 high priority sites, 724 medium priority sites and 6751 low priority sites.
11. A rolling programme of Detailed Inspections commenced in 2006;
12. Three sites have been formally determined as Contaminated Land and designated as Special Sites, having particular water course or aquifer pollution risks. These are Litherland Gasworks, Sefton Meadows Landfill Extension 1 and Sefton Meadows Landfill Extension 2;
13. The Council is currently progressing six sites through the Part 2A proactive inspection process; the sites are at various stages of progression ranging from inspection to consideration of remediation options;
 - Seven closed landfill sites have been inspected by the Environment Agency on behalf of the Council;
 - Two sites were determined as Contaminated Land and designated as Special Sites in August 2009;
 - Two sites require further inspection prior to determination;
 - Three sites have been investigated and do not require further work at this time. Further work may be required following remediation of the two designated Special Sites;
 - A remediation forum comprising interested parties including the Council and the Environment Agency has been formed to appraise the remediation options for the two designated Special Sites.

Summary of Strategy Changes

14. Sections of the Strategy where changes are proposed are identified in Appendix 1. The full texts of sections where substantive changes have been made are included in Appendix 2.
15. Changes of particular note are as follows:
 - Update to the Executive Summary to provide a summary of progress to date.
 - Update to Section 1.1.1 Local Authority Policies.
 - Update to Sections 1.1.2 Merseyside Context and 1.1.3 Regional Context.

- Update of Section 1.2.1 Background and Definitions to reflect amendments to the contaminated land regime to include Radioactively Contaminated Land.
- Update to Section 1.2.4 Principles of Risk Assessment.
- Updating of Sections 1.3 and 8.3 to provide information on the Strategy review process.
- Update to Section 2.12.3 Local Hydrogeology and Use of Groundwater Resources to reflect changes in Aquifer Designations for consistency with the Water Framework Directive.
- Update to Section 2.13 Surface Waters
- Update to Section 2.15 Redevelopment History and Controls.
- Update to Section 3.2 Objectives and Milestones.
- Update of objectives and timescales (Table 3.1).
- Revision of Section 4.3 Measuring Progress.
- Update to Section 5.1 Internal Management Arrangements for Inspection and Identification to reflect changes to Departmental Structures.
- Section 5.5.3 has been updated to reflect the publication by DEFRA and the Environment Agency of new technical documents relevant to the assessment of human health risks arising from contaminants in soil.
- Section 5.6.3 has been added to include the Environmental Damage (Prevention and Remediation) Regulations 2009.
- Amendment of Section 6.0 General Liaison and Communication Strategies.
- Amendments to Section 6.7 The Wider Community.
- Section 9.4.1 has been updated to provide new details on the location of the Public Register.
- Amendment of Appendix 1 to present changes to Categories of Significant Harm.

16. The full version of the revised strategy, once approved, will be made available on the Sefton Council website – www.sefton.gov.uk.

Appendix 1

List of Changes by Section

List of Changes by Section

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- Section 1.1.1 Local Authority Policies
- Section 1.1.2 Merseyside Context
- Section 1.1.3 Regional Context
- Section 1.1.5 Wider Government Policy Context
- Section 1.2.Regulatory Context
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- Section 1.3 Development of the Strategy
- Section 1.4 Objectives of the Strategy Document
- Section 2.6 Land Owned by Sefton Council
- Section 2.8 Protected Locations
- Section 2.9 Key Property Types
- Section 2.11 Current and Past Industrial History
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- Section 2.16 Action Already Taken to Deal with Land Contamination
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- Section 3.2 Objectives and Milestones
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- Section 5.1 Internal Management Arrangements for Inspection and Identification
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- Section 5.6.3 The Environmental Damage (Prevention and Remediation) Regulations 2009
- Section 5.6.4 Waste Management Licensing System
- Section 5.6.8 Other Regimes
- Section 6.3 Statutory Consultees
- Section 6.7 The Wider Community
- Section 6.8 Risk Communication
- Section 7.2.1 Compliance with Statutory Guidance
- Section 7.2.9 Format of Information Resulting from Inspection
- Section 8.2 Triggers for Reviewing Decisions
- Section 8.3 Review of Inspection Strategy
- Section 9.2 Merseyside Contaminated Land Information Management System
- Section 9.3 Administration and IMS Management
- Section 9.4.1 Public Register
- Section 9.4.2 Information Requests
- Appendix I Categories of Significant Harm
- Appendix II Statutory and Non Statutory Bodies
- Appendix III Procedure for Dealing with Local Authority Land
- Appendix V References and Bibliography

Appendix 2

Amended Sections of the Contaminated Land Inspection Strategy (Substantive Changes Only)

ENVIRONMENTAL PROTECTION ACT 1990

SEFTON COUNCIL

**CONTAMINATED LAND INSPECTION STRATEGY (Third
Review)**

REVISED August 2010

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Executive Summary

In common with other areas, Sefton has a legacy of land contamination arising from industrial development and other related operational practices.

Under new contaminated land provisions contained within Part 2A of the Environmental Protection Act 1990 introduced on 1st April 2000, each Council has a duty to inspect its area to identify land which meets the statutory definition of contaminated land and ensure that it is managed in an appropriate manner.

This legislation adopts the “suitable for use” approach in order to ensure that remedial action is taken only where contamination presents an unacceptable risk to human health or the wider environment assessed in the context of the current use and circumstances of the land.

Prior to the introduction of this legislation, there has been no strategic approach to the identification of contaminated land within the Borough. Land contamination has been addressed during development or in response to identified problems.

Councils are now required to take a strategic approach to inspecting their areas and to describe and publish this in a written strategy which was required to be submitted to the Department of Environment, Transport and the Regions by July 2001.

This strategy document, now in its third review, fulfils the above requirement by setting out how Sefton Council proposes to implement its inspection duties under Part 2A. It describes the framework within which land which merits detailed individual inspection will be identified in a rational, ordered and efficient manner, identifying the most serious and pressing problems first and concentrating resources on the areas where contaminated land is most likely to be found.

The Borough Council has the primary regulatory role in the implementation of Part 2A but wherever necessary the Council will work in partnership with others, particularly the Environment Agency which has a key supporting role and a number of specific regulatory functions under the new contaminated land regime.

Through implementation of the Strategy the Council’s aims are:

- to adopt a strategic risk based approach to the periodic inspection of the Borough to identify land which presents unacceptable risks to human health or the wider environment;
- to ensure that available resources are effectively targeted;
- to ensure that all those affected by, and involved in, the inspection process have the same clear understanding of the rationale for inspection, how this will be carried out and over what timescale;
- by effective communication of the authority’s intentions, to encourage voluntary action by polluters or other appropriate persons;

- to promote regeneration, improvement of the environment and protection of the Green Belt through effective links with wider Council and Regional policies;

Key objectives and timescales for meeting the above aims have been set out within the strategy document.

It is recognised that sites where urgent action is required may be identified at any time; these will be dealt with as a priority as they arise. The Council has also identified the following further priorities within the overall strategic approach to inspection:

- Dealing with land where there is any verifiable report of significant harm or pollution of controlled waters;
- Identification of unacceptable risks to human health;
- Assessment of sites identified by other regulatory bodies, such as Environment Agency and English Nature;
- Assessment of land currently or formerly owned or occupied by the Borough Council;
- Assessment of land allocated for sensitive uses within the Unitary Development Plan (UDP) to be replaced by the Local Development Framework (LDF) in due course.

This Strategy sets out how, taking into consideration local characteristics, the Council proposes to;

- consider land for which it may have particular responsibilities;
- collect appropriate information on sources of contaminants, the presence of sensitive receptors (as defined within statutory guidance) and pathways along which contaminants may reach such receptors;
- evaluate such information to identify areas of land which merit detailed inspection and to prioritise them such that they are dealt with in an appropriate order;
- select individual sites for inspection and describes the way in which inspections will be undertaken;
- liaise and communicate with key partners including statutory bodies, landowners and occupiers and the wider community at various stages during strategy implementation;
- manage the significant amount of information expected to be obtained from a variety of sources and information generated during the inspection process;
- review both inspection decisions and the strategy document itself.

Effective liaison and communication with statutory bodies, landowners, occupiers, other interested parties and the wider community is recognised as a key factor in the successful implementation of the strategy.

The identification and remediation of contamination within the Borough is a long and continuous process; the preparation of this strategy document was the first stage. The speed of progress during the implementation of this strategy continues to be dependent on the resources available.

Progress to date is summarised below:

- (i) Development of all modules in the Contaminated Land Information Management system (CLIMS) has been completed and all modules are integrated and fully functional;
- (ii) Collection of all core data sets for input into CLIMS has been completed. This process is also on-going as new information comes to light;
- (iii) Efficient liaison and information exchange mechanisms have been established with key partners;
- (iv) The initial site prioritisation algorithm run by the CLIMS Analysis module produced over 20356 sites requiring further inspection by the Council. The outputs of the module were reviewed (amalgamation and merging) and this process of further re-prioritisation resulted in a refined list of 8608 sites for further consideration;
- (v) A rolling programme of Detailed Inspections commenced in 2006;
- (vi) Fifty-two sites have been remediated and removed from the inspection list;
- (vii) Further sites have been identified through the planning process and as of 25th August 2010, 8591 sites of potential concern have been identified. These comprise 1116 high priority sites, 724 medium priority sites and 6751 low priority sites;
- (viii) Three sites have been formally determined as Contaminated Land and designated as Special Sites these are Litherland Gasworks, Sefton Meadows Extension 1 and Sefton Meadows Extension 2;
- (ix) The Council is currently progressing six sites through the Part 2A process; the sites are at various stages of progression ranging from inspection to consideration of remediation options;
- (x) Seven closed landfill sites have been inspected by the Environment Agency on behalf of the Council:
 - Two sites were determined as Contaminated Land and designated as Special Sites in August 2009;
 - Two sites require further inspection prior to determination;
 - Three sites do not require further work at this time. Further work may be required following remediation of the two designated Special Sites;

- A remediation forum comprising interested parties including the Council and the Environment Agency has been formed to appraise the remediation options for the two designated Special Sites.
- (xi) In addition to Part 2A, there are other regimes through which remediation of contaminated land is achieved. The planning process continues to be the primary mechanism, indeed a significant number of the sites identified as high priority within the inspection process have been dealt with in this way. The Council has also successfully used the Environmental Damage (Prevention and Remediation) Regulations 2009 to secure remediation of land affected by contamination.

CONTAMINATED LAND INSPECTION STRATEGY

1.0 INTRODUCTION

1.1 General Policy

1.1.1 Local Authority Policies

This Contaminated Land Inspection Strategy (CLIS) has been prepared within the context of wider Council strategies, programmes and policies. These include:

A Vision for Sefton - The Community Strategy 2006 - 2011

The Community Strategy is the overarching plan of the public, business community and voluntary sectors. It sets out Sefton Borough Partnership's vision and strategic objectives for the future of Sefton and focuses on achieving realistic improvements in the economic, social and environmental well-being of Sefton over the next 5-10 years.

The vision set out in the Community Strategy is: **'to make Sefton a great place in which to live, work, learn, visit and do business'**.

The Sefton Borough Partnership is working towards the government's vision of Sustainable Communities that deliver sustainable communities at the local level. Priorities and targets to improve the life of those living in and visiting Sefton are presented as four main themes:

- Children and Young People
- Economic Development and Sustainability
- Safer and Stronger Communities
- Healthier Communities and Older People

The Community Strategy also builds on the foundations of other plans and programmes such as the Local Development Framework, the Local Neighbourhood Renewal Strategy and the Regeneration Strategy.

The Council will make an important contribution to meeting the aims and objectives of the Community Strategy through the services it provides and by implementing its own policies. Within the Council itself, the delivery of services is determined by the Corporate Plan.

Sefton Council Corporate Plan

This Strategy is presented in the context of the Council's Corporate Plan, which sets out the Council's vision, values, strategic aims and priorities.

The Council's Vision is:

'Sefton Council seeks to develop a thriving, prosperous borough where a high quality of life is enjoyed by all members of the community. We want Sefton to be a safe and healthy place where people are proud to live and work, and are attracted to visit and invest in. Above all we aim to make changes which will safeguard the well being of future generations'.

The Plan sets out eight strategic aims:

- Creating a Learning Community
- Health and Well-Being
- Children and Young People
- Creating Inclusive Communities
- Jobs & Prosperity
- Creating Safe Communities
- Environmental Sustainability
- Improving the Quality of Council Services and Strengthening Local Democracy

The Summary Corporate Plan 2009-2010 groups the aims under five headings:

- Sustainable Economic Development and Enterprise
- Health and Well-being
- Children and Young People
- Safer and Stronger Communities
- Improving the Quality of Council Services and Strengthening Local Democracy

Remediation of former industrial sites in south Sefton to residential standards as part of Housing Market Renewal activity is identified as an action to help deliver the strategic objective of Environmental Sustainability.

Land contamination has significant impacts on both the environment and the economy. These policy areas are therefore key considerations in developing and implementing the Strategy.

Background to Land Reclamation in Sefton

Sefton has been very active in the field of economic regeneration and land reclamation, particularly over the last fifteen to twenty years and has achieved much in its aim of

removing the blight of derelict land. Inevitably such land reclamation activities have also had a significant impact on the remediation of contaminated land.

The Council has developed a land regeneration database. The purpose of the database is to record the progress that the Authority has made on its land regeneration work. It allows for monitoring of land previously reclaimed and its progression through the development process from its initial identification through to its eventual after use or redevelopment.

Regeneration Initiatives

A number of regeneration initiatives are underway within Sefton; these include:

- Neighbourhood Renewal Fund (NRF) programme
- Merseyside Housing Market Renewal Pathfinder – New Heartlands Prospectus
- South Sefton Regeneration Strategy
- Action Plan for the City Region 2008-2011

The Council has developed a Land Regeneration Strategy. Whilst the Land Regeneration Strategy and Contaminated Land Inspection Strategy have different objectives, there are a number of important areas of overlap as both strategies will result in the reclamation and remediation of significant areas of contaminated land within the Borough.

The principal aim of Sefton's Land Regeneration Strategy is to support development that achieves the Council's regeneration objectives.

The Council's Land Regeneration Strategy is set in a local and sub-regional framework and will reflect objectives set by:

- Future Northwest: Our Shared Priorities
- Draft North Liverpool/South Sefton Strategic Regeneration Framework
- Sefton Unitary Development Plan
- Emerging Sefton Core Strategy
- Liverpool City Region Development Plan
- Action Plan for the Liverpool City Region
- Housing Market Renewal Initiative Programme

Owing to the history associated with development in Sefton it is known that there is an extensive contamination problem. Despite having reclaimed in excess of 140 hectares of land over the past decade it is acknowledged that there is now much land that may eventually require further treatment as a result of the redefining of contamination. Addressing ground contamination is thus considered to be an important priority for any land regeneration programme and progress will be measured for Best Value and Comprehensive Area Assessment purposes.

Unitary Development Plan (adopted 2006)

The Unitary Development Plan (UDP) is the statement of the Council's planning objectives and policies that will shape the future land use within the Borough. A number of policies relate directly or indirectly to land contamination issues.

Under the new planning system, Sefton Council will produce a Local Development Framework (LDF). This will consist of a set of documents which will be used in making decisions on planning applications. Work has already started on the LDF which will replace the replacement UDP in due course.

Enforcement Policy

Sefton has an enforcement policy that is consistent with Central Government's Enforcement Concordat. The Cabinet Office published the Concordat and this sets out what businesses and others being regulated can expect from enforcement officers employed by Local Authorities and other agencies. Sefton has adopted the Concordat into existing policy thereby committing themselves to good enforcement policies and procedures, which contribute to Best Value.

The Concordat's main principles are:

- Openness;
- Helpfulness;
- Consistency;
- Proportionality;
- Agreed Standards of Service;
- Access to complaint process.

Public Access to Information

The authority will respond to enquiries about contaminated land in accordance with the Environmental Information Regulations 2004.

The Environmental Information Regulations 2004, which implement the EC Directive on Public Access to Information (2003/4/EC), together with The Data Protection Act 1998 and the Freedom of Information Act 2000, form part of the UK's access to information regime.

Consultation Strategy

To ensure that all sectors of the community were aware of this new legislation and manner in which the Council intends to implement its inspection duties, a consultation

draft of the first version of this Strategy (published in April 2001) was made available to interested sections of the community, businesses, developers and other regulatory bodies. Comments received were considered and where appropriate the strategy was revised to address the issues raised.

Elected members and statutory consultees have been consulted on subsequent revisions of the strategy with final versions published on the Council website.

1.1.2 Merseyside Context

Owing to the extent and severity of contamination in areas of Merseyside, the Merseyside Districts (Sefton, Knowsley, St. Helens, Wirral and the City of Liverpool) and Halton have a history of working together to address the issue of contaminated land strategically. A Contaminated Land Officers Group (CLOG) was established in 1991 which acts to progress strategic initiatives, exchange information and seek uniform approaches to dealing with contaminated land issues across its area of Merseyside and Halton. The Contaminated Land Information Management System (CLIMS) developed and implemented by the Districts with support from Merseyside Information Service / Mott Macdonald is one such initiative.

Sefton is part of the Liverpool City Region with the neighbouring Boroughs of Knowsley, St. Helens, Wirral, Halton and the City of Liverpool. Tackling the historic legacy of contaminated land through the regeneration process is a sub-regional priority. Its importance is being flagged up through joint working arrangements at the sub-regional level including:

- The Mersey Partnership and any Local Economic Partnership that may subsequently emerge
- Liverpool City Region Cabinet and appropriate thematic Boards
- Liverpool City Region Multi Area Agreement
- Action Plan for the City Region 2008 - 2011
- The Liverpool City Region Development Plan
- Future stages of the Housing Market Renewal Pathfinder

Sefton, Knowsley, St Helens, the City of Liverpool and Halton are partners in the Mersey Forest initiative, which has established low cost community woodland uses utilising a range of funding sources on a range of sites subject to potentially contaminative uses through its Landfill Woodlands project and, more recently, the NewLands Project. Sites such as Sefton Meadows are being remediated for a community forest end use. Further bioremediation and community forest projects on contaminated land are planned.

1.1.3 Regional Context

There are three main factors driving contaminated land work in the regional context.

The North West Development Agency (NWDA) is one of the major funders of remediation and redevelopment of derelict and contaminated land, though this is likely to change as coalition government policy regarding the Regional Development Agencies becomes clearer and reforms are implemented. The current position is that the NWDA's "England's North West – a strategy towards 2020" (2000), identifies one of its priorities for early action as being "to review the land reclamation programme to secure greater efficiency and clear objectives." The Final Report of the Land Reclamation Review Steering Group, Reclaim the Northwest was produced in May 2001. The NWDA's Strategy states that particular attention is to be given by the NWDA to the problems and issues raised by redundant and derelict sites related to the chemical industry, but the development work assisted by NWDA is widespread across the region. An increase in assistance where there are social and environmental benefits as well as economic benefits is likely as one outcome of the review.

A key point is that NWDA will not make investments where the outcome does not contribute sufficiently towards key objectives of the Regional Economic Strategy or where others are legally obligated to act. The success of the NewLands project is an example of where a major initiative has benefited from significant NWDA investment. Assistance in remediation of contaminated sites which fall clearly within Part 2A is considered unlikely and is more likely as part of economic regeneration projects.

The North West of England Plan Regional Spatial Strategy (RSS) which was adopted in 2008 provided for development and investment in the region for a 15 to 20 year period. It impacted upon contaminated land in two ways. It led development plans to contain particular policies to address contaminated land in particular ways and indirectly affected it by how it promotes spatial development in the regional context. The RSS stated:

"The North West was at the forefront of the industrial revolution and to this day remains one of the UK's major manufacturing centres. This past industrial activity has left a legacy of land contamination, which needs to be managed. Successful remediation of contaminated land is fundamental to improving the image of the region. The contaminated land regime (95) was introduced 11 years ago to identify this legacy, where it posed an unacceptable risk, and ensure its remediation to appropriate standards. The regime favours voluntary remediation and in many cases is being brought about as a consequence of proposed development. In the North West, the Environment Agency and others are developing best practice guidelines based on a hierarchy of remediation methods."

"Policy EM2 Remediating Contaminated Land in the RSS stated "Plans, strategies, proposals and schemes should encourage the adoption of sustainable remediation technologies. Where soft end uses (including green infrastructure, natural habitat or landscape creation) are to be provided on previously developed sites, appropriate remediation technologies should be considered which reduce or render harmless any contamination that may be present."

RSS, by directing development to derelict or brownfield land, thus had considerable implications on remediation of contaminated land in order to deliver such development. Local Planning Authorities were required to pay due regard to the RSS policies in preparing their Local Development Frameworks and other strategies including the CLIS. However, RSS was formally rescinded by the coalition Government in July 2010 and has not been formally replaced by any other mechanism at the Regional level. Progress on development of the Single Regional Strategy, RS2010, has also been discontinued and, while a high-level document entitled Future North West has been published, it carries no statutory weight and includes no content of formal relevance to local authority Local Development Frameworks. However, while the regional tier of policy has been removed, Government advice is that the evidence base that underpinned the content of RSS is available to be drawn upon by local authorities where this is considered appropriate. While no longer carrying statutory weight, the sections of RSS quoted above are considered to articulate important principles that Sefton will continue to pursue locally. Current Government proposals do not envisage any new statutory arrangements for strategic planning at the regional level.

By rescinding RSS, removing funding for the 4NW Leaders Forum, and by reforming and winding-down NWDA, government has significantly altered the structures that have been actively working to undertake research, develop strategic policy and actively intervene in support of bringing brownfield and contaminated land back into beneficial use. It is currently unclear what, if anything, will replace these arrangements under the Government's 'localism' agenda, though it is possible that some functions may devolve to City Region level, to a new Local Economic Partnership, or even to local authorities themselves. Some of these issues may be clarified by the introduction to Parliament of a Localism Bill, expected in the Autumn of 2010.

1.2 Regulatory Context

1.2.1 Background and Definition

Part 2A of the Environmental Protection Act 1990, inserted by Section 57 of the Environment Act 1995, introduced a new regime for the identification and remediation of contaminated land. The responsibility for administering and enforcing these provisions lies with the local authorities and Environment Agency, but also involves input from several other organisations.

The contaminated land regime is set out in primary legislation, Statutory Guidance provided by the Secretary of State¹ and Regulations². This section provides a summary of the main features of the regime and describes the roles of the local authority and the Environment Agency. A number of other organisations have vital roles within the

¹ Defra Circular 01/2006 Environmental Protection Act 1990: Part 2A Contaminated Land

² Statutory Instrument 2006/1380 The Contaminated Land (England) Regulations 2006

implementation of the strategy; the organisations involved and the procedures to be adopted to ensure effective communication are detailed in later sections of this document.

Part 2A adopts the “suitable for use” approach in order to ensure that remedial action is only taken where contamination presents an unacceptable risk to human health or the wider environment assessed in the context of the current use and circumstances of the land. Liability for the remediation of contaminated land is to be established, where feasible, in accordance with the polluter pays principle. The regime incorporates a risk-based approach to assessing the significance of contamination and provides the first statutory definition of contaminated land.

Under Part 2A contaminated land is defined as:

“Any land which appears to the Local Authority in whose area it is situated to be in such a condition, by means of substances in, on or under the land that;

(a) Significant harm is being caused or there is a significant possibility of such harm being caused; or

(b) Pollution of controlled waters is being, or is likely to be, caused.”

The Council must follow the guidance provided by the Secretary of State in applying the above definition for the identification and determination of contaminated land.

The regime initially excluded contaminated land by virtue of harm or water pollution attributable to radioactivity. In August 2006, the regime was extended by new regulations to include land that is contaminated by virtue of radioactivity. Statutory guidance issued in 2000 has been amended to reflect this change².

It should be noted that all future references to contaminated land within the strategy document, unless otherwise stated, refer to the statutory definition shown above.

It is important to note that the statutory definition of contaminated land does not necessarily include all land where contamination is present. Land which does not fall within the statutory definition of contaminated land, may be subject to contamination relevant in the context of other regimes. For example, land may contain substances with the potential to cause harm if the use of the land is changed. Indeed, the planning regime will continue to be the most widely used method of regulating land contamination. Part 2A will deal with the legacy of contamination that is not progressed through the Planning Regime.

The Water Act 2003 includes a change to the definition of contaminated land, in respect of pollution of controlled waters, in particular to introduce a “significance” test. This is not in force at the time of writing of this third revision of the Inspection Strategy. Statutory guidance is awaited under Part 2A to define “significant”, on similar lines to the existing guidance on harm (see Section 1.2.4 below). When implemented the Council will follow the guidance provided by the Secretary of State in applying the amended definition of contaminated land.

1.2.4 Principles of Risk Assessment

The approach adopted in the UK to the assessment and management of contaminated land is based on the principles of risk assessment. These principles also underlie the legislative requirements of Part 2A. The approach is based on the source-pathway-receptor relationship or pollutant linkage. For there to be a risk there must be a source of contamination, one or more receptors that could be harmed and pathways along which the contaminants can reach the receptors. Without a source-pathway-receptor pollutant linkage, there is no risk and the land in question cannot be determined to be contaminated land. The purpose of remediation of contaminated land is therefore to break the pollutant linkages by removing or treating the contaminant, removing or blocking the pathway or removing or protecting the receptor.

Receptors are defined within the Statutory Guidance as either:

- (a) a living organism, a group of living organisms, an ecological system or a piece of property which:
 - (i) is in a category listed in Table A³ of the Statutory Guidance as a type of receptor, and
 - (ii) is being, or could be, harmed, by a contaminant; or
 - (b) controlled waters which are being, or could be, polluted by a contaminant;
- or
- (c) a person subjected to lasting exposure resulting from the after-effects of a radiological emergency, past practice or past work activity.

Table A of the Statutory Guidance also specifies the descriptions of harm for each type of receptor that is to be regarded as significant harm. Table B⁴ sets out the conditions for there being a significant possibility of significant harm.

Tables A and B, reproduced from the Statutory Guidance, are presented as Appendix I.

The Part 2A regime is aimed at dealing with cases where the risk is sufficient, given the existence of a pollutant linkage or linkages, to justify remedial action without waiting for any future development of the land. The regime is therefore complementary to considerations under the planning system where contaminated land or the possibility of it (both in terms of the statutory definition and in its wider context) is considered as a material planning issue.

1.3 Development of the Strategy

In the development of this strategy Sefton Council has adopted a joint working approach with two adjacent Merseyside Districts, Knowsley and St Helens. Production of the strategy was undertaken by the Merseyside Environmental Advisory Service (Merseyside EAS), with support from internal teams.

³ Table A, Annex 3, Chapter A – Categories of Significant Harm – Defra Circular 01/2006, Environmental Protection Act 1990: Part 2A Contaminated Land, HMSO (2006) Statutory Guidance on the Definition of Contaminated Land.

⁴ Table B, Annex 3, Chapter A – Significant Possibility of Significant Harm – Defra Circular 01/2006, Environmental Protection Act 1990: Part 2A Contaminated Land, HMSO (2006) Statutory Guidance on the Definition of Contaminated Land.

Merseyside EAS, in close co-operation with Sefton Council officers, is also responsible for initiating the implementation of this Strategy, including site identification and risk assessment of priority sites.

Throughout the development of the strategy, close liaison has been maintained between Merseyside EAS and the constituent authorities through regular meetings of the Contaminated Land Project Working Party (now renamed the Contaminated Land Working Group). The Working Group, comprising key members of staff from the Environment Section, the Planning & Economic Development Department and Merseyside EAS staff, was set up to monitor progress; assist with direction and to resolve issues arising during Strategy development. The Working Group continues to meet during the strategy implementation stages.

Awareness raising briefings were held with all land owning departments of the Council; specifically included in the process were the Technical Services Department, the Housing Department, the Leisure Department, the Economic Development & Tourism Unit, Social Services Department and the Education Department.

In addition, through participation within and co-ordination of the Merseyside Contaminated Land Officers Group, there has been an aim to maintain consistency not only within the three districts of Sefton, St Helens and Knowsley but on a Merseyside basis.

The approach adopted is considered to be the most efficient and cost effective means of meeting the Council's statutory obligation to produce and publish the Contaminated Land Inspection Strategy.

The strategy has been developed in accordance with relevant legislation and guidance and with reference to wider Council policies. The guidance contained within Contaminated Land Inspection Strategies Technical Advice Note for Local Authorities, Draft for Comment⁵, which provides advice to local authorities on fulfilling their statutory obligations and complying with the underlying principles of the Part 2A regime, was followed.

Following Cabinet approval, consultation on the Draft Contaminated Land Inspection Strategy was undertaken with both statutory and non-statutory consultees. A copy of the Draft Strategy was sent to all Statutory consultees including: the Environment Agency; English Nature (now Natural England); English Heritage, the Ministry of Agriculture, Fisheries and Food (MAFF) now the Department for Environment Food and Rural Affairs (Defra), and the Food Standards Agency (FSA). Other bodies and the wider community were also consulted. Such bodies are listed in Appendix II and include other statutory agencies, neighbouring local authorities and Parish and Town Councils.

⁵ DETR (2000) Contaminated Land Inspection Strategies Technical Advice Note for Local Authorities, Draft for Comment

The Draft Strategy was also made available at the offices of the Environmental Protection Department (now the Environmental & Technical Services Department) and the Planning Department (now the Planning & Economic Development Department) and at local libraries for viewing during normal opening hours. Copies of the Draft Strategy were also available from the Contaminated Land Team at the Environmental Protection Department.

Comments received as a result of the consultation process were reviewed and where appropriate incorporated into the Contaminated Land Inspection Strategy, adopted by the Council. The adopted Strategy was sent to the Environment Agency as required by the Statutory Guidance.

The strategy is periodically reviewed as a working document as detailed in Section 8.0. Amendments may be made and these will be communicated to the statutory consultees as and when they are implemented. Revised versions of the Strategy will be available for viewing on the Council's website. Hard copies will also be available from the Environmental & Technical Services Department on request.

This third review of the strategy has been undertaken to report on progress and update sections of the document as appropriate. Previous reviews of the Strategy were undertaken in November/December 2002 and September 2006.

The priorities and procedures set out within the Inspection Strategy have not been substantively revised.

This revised version of the Contaminated Land Inspection Strategy implements the changes following the third review.

2.0 Characteristics of the Metropolitan Borough of Sefton

2.12.3 Local Hydrogeology and Use of Groundwater Resources

A number of water bearing units occur within the area giving rise to a range of aquifers within both the bedrock and the superficial deposits. Generally, across north Merseyside, groundwater levels are rising with implications for potential pollution.

Aquifer designations have recently been changed to be more consistent with the terminology used within the Water Framework Directive. The new aquifer designations are: Principal Aquifer, Secondary Aquifer and Unproductive Strata.

Principal Aquifers are geological strata that exhibit high intergranular and/or fracture permeability. They usually provide a high level of water storage. They may support water supply and/or river base flow on a strategic scale. Principal Aquifers equate in most cases to aquifers previously designated as Major Aquifer.

Secondary Aquifers include a wide range of geological strata with a correspondingly wide range of permeability and storage. Secondary aquifers are subdivided into two:

- Secondary A – permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow to rivers. These generally equate to aquifers formerly classed as Minor Aquifers.
- Secondary B – predominantly lower permeability strata which may in part have the ability to store and yield limited amounts of groundwater by virtue of localized features. These are generally the water bearing parts of the former Non-Aquifers.

Unproductive Strata are geological strata with low permeability that have negligible significance for water supply or river base flow.

At the time of writing of this third review of the Strategy, new aquifer designation datasets were unavailable. Details of the previous aquifer designations are summarised below for general information. In conducting any site specific investigation, the Council will use the most current information available.

Major Aquifers

The major aquifer within the Borough is the Permo-Triassic Sandstone (including the Sherwood Sandstone Group). The aquifer unit outcrops in the South of the Borough to the south of the area around Ince Blundell and Great Crosby. The sandstone forms part of a much larger outcrop comprising the Liverpool and Ormskirk aquifer unit.

Groundwater within the Liverpool and Ormskirk aquifer unit is heavily exploited for both public and industrial use with major abstractions located within and to the east of Sefton boundary, at Melling and near Lydiate. These major abstractions have designated Source Protection Zones⁶ around them, which cover a substantial area of the sandstone outcrop in the Borough. Historically, over abstraction resulted in falling groundwater levels and, although there has been significant reduction in abstraction, with associated recovery, over the last two decades, new applications for abstractions are understood to be considered on a case by case basis. The groundwater also supports numerous small-scale licensed and unlicensed abstractions, provides baseflow to the River Alt and discharges to the Mersey estuary.

The sandstone is generally covered with a complex series of drift deposits, which are dominated by glacial boulder clay. Such low permeability drift will inhibit aquifer recharge

⁶ Source Protection Zones provide additional protection for water sources. They are designated zones around public water supply abstractions and other sensitive receptors that signal there are particular risks to the groundwater source they protect. The zones are periodically reviewed to ensure they are kept up to date as licence conditions change or knowledge of local hydrogeology improves.

and thereby reduce the vulnerability of the groundwater to pollution from surface activities. However, where the drift cover is thin and/or sandy, it should be regarded as capable of transmitting water to the aquifer beneath. In the lower lying area of the Alt Valley, the aquifer is sealed by low permeability drift deposits above and the groundwater levels are artesian. In such circumstances, the upward pressure of groundwater in the major aquifer will prevent the downward movement of superficial groundwaters.

Groundwater quality in the aquifer is generally high although past heavy industrial abstraction close to the Mersey has resulted in localised areas of saline intrusion to the south of the Borough.

Minor Aquifers

Minor aquifers within the Borough boundaries are confined to the more permeable unconsolidated drift (superficial) deposits; there are no solid rock minor aquifers in the Borough.

Although low permeability glacial boulder clay dominates, a variety of permeable drift deposits are present in the area. These can be classified as minor aquifers in their own right and have some potential for localised exploitation. The most extensive is wind blown sand, which occurs along almost the entire coast and further inland to the south and east of Ince Blundell. This deposit covers a large proportion of the non-aquifer outcrop in Sefton Borough and groundwater within it is exploited for spray irrigation. Other permeable drift deposits include alluvium along the coast around north Southport and along the River Alt. Groundwater in the drift deposits also supports peatland in the south, along the eastern boundary and to the west of Ince Blundell. Groundwater levels in the drift deposits will generally be close to ground level with flow ultimately towards surface waters. Groundwater in the drift deposits is variable and may be highly susceptible to surface pollution.

Non-aquifers

Non-aquifers in the Borough comprise the Triassic Mercia Mudstone Group. The Mercia Mudstone Group underlies a large proportion of the Borough, north of the major aquifer outcrop, to the north of Great Crosby and Ince Blundell.

The Mercia Mudstone Group contain siltstone layers, solution breccias (formed by dissolution of salt deposits), shallow fractured/weathered zones, which allow for some limited groundwater movement and provide some limited groundwater storage.

Where low permeability strata such as glacial boulder clays are thickly developed and laterally extensive they may be considered as non-aquifers.

2.13 Surface Waters

The main river in the south and central area of the Borough is the River Alt. This rises in Huyton in the Metropolitan Borough of Knowsley and flows in a north westerly direction twenty-eight kilometres to its tidal limit at Hightown, in Sefton. The catchment area of the River Alt, in addition to Sefton, includes Knowsley and North Liverpool. The estuaries of the Alt and the Crossens form part of an area designated for its conservation importance nationally and internationally.

In Sefton, the tributaries of the River Alt include Downholland Brook, Maghull Brook, Dover's Brook, Hunt's Brook and Fine Jane's Brook.

In the upper reaches of its catchment the River Alt drains highly urbanised and industrialised areas and is canalised in places along its length. In the lower reaches, between Maghull and Altmouth, the river is contained by artificial embankments and flows through low lying rural areas, where agriculture is the dominant activity. This area is drained by a large network of ditches which are linked to the main watercourses via land drainage and pumping stations. In the past the catchment was entirely pumped, however in recent years, the pumping regime has been reduced.

At the north of the Borough the main water courses comprise: The Sluice which rises in the District of West Lancashire; Back Drain which drains the central area of mosslands to the north and east of Southport and Three Pools Waterway which rises in the south east corner of Ormskirk and flows north eastwards skirting Southport.

The Alt/Crossens catchment has historically had problems with water quality, owing to nutrient enrichment and agro-chemical input from agricultural activities, and sediment input contaminated with heavy metals from the area's industrial legacy. However, it is showing signs of improvement⁷.

The River Basin Management Plan (RBMP) identifies a number of specific actions to improve water bodies within the Alt/Crossens catchment, these include researching and remediating historically contaminated sediments (from the industrial legacy of the catchment) to prevent leachate contaminating rivers..

There are three designated bathing water beaches in the River Alt and Crossens area. These are at Formby, Ainsdale and Southport. The Environment Agency is responsible for sampling and monitoring bathing waters to enable compliance with the EC Bathing Waters Directive. The Environment Agency sample the quality of the bathing waters approximately once per week during the bathing season (May to September). Sample data to date for 2010 showed the quality of the bathing water to be excellent⁸.

At the south of the Borough the main watercourse is Rimrose Brook which runs approximately north to south between Great Crosby and Litherland, north of Bootle.

⁷ Environment Agency (December 2009) River Basin Management Plan North West River Basin District

⁸ <http://evidence.environment-agency.gov.uk/Bathingwaters>

The Leeds and Liverpool Canal crosses the southern area of the Borough; water quality in the stretches of canal within the Borough is poor.

2.15 Redevelopment History and Controls

2.15.2 Controls

When determining planning applications where contaminated land is suspected, the Council will have regard to the advice set out in Planning Policy Statement 23: Planning and Pollution Control (PPS23)⁹ and its accompanying Annex 2: Development on Land Affected by Contamination, together with other relevant policies, acknowledged standards and regulations. Further details on PPS 23 and the interface between planning guidance and the Part 2A regime is set out in Section 5.6.1.

The Council has a statutory duty to determine applications in accordance with the UDP. Policies EP1 (Managing Environmental Risk), EP3 (Development of Contaminated Land) and EP4 (Development on or near to Landfill Sites) are particularly relevant.

Policy EP1 Managing Environmental Risk

Development proposals should demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimize the risks of harm or damage to people, property and the natural environment from:

- (a) pollution of land, surface water, ground water and the air;*
- (b) previously contaminated land;*
- (c) hazardous substances;*
- (d) noise, vibration and light nuisance;*
- (e) flooding.*

⁹ Planning Policy Statement 23 : Planning and Pollution Control (PPS 23) (November 2004)

Policy EP3 Development of Contaminated Land

1. *Where there is evidence that a site may be affected by contamination, proposals shall be accompanied by a site investigation report and a schedule of remedial measures.*
2. *Development will not be permitted where the remedial measures will not deal effectively with the level of contamination and will place the occupiers of the proposed development and neighboring land uses at risk.*
3. *Where proposals are acceptable in principle, planning permission will be granted subject to conditions requiring:*
 - (a) where appropriate, a full site investigation and assessment to be carried out before the development begins; and*
 - (b) the development to incorporate all the remedial measures found to be necessary.*
4. *Where remedial measures are required to deal effectively with contamination, a validation report must be submitted to verify that remedial works have been carried out.*
5. *Where appropriate, ecological surveys must accompany applications that involve the development of contaminated land.*

Policy EP4 Development on or Near to Landfill Sites

1. *Development proposals on land liable to be affected by the migration of gas or other harmful substances from a nearby landfill site will only be permitted:*
 - (a) if proposals are accompanied by a site investigation report containing information on the nature and extent of landfill gas and any other harmful mobile substances;*
 - (b) if proposals are accompanied by a schedule of remedial measures;*
 - (c) if suitable precautions are taken to prevent migrating gas or other harmful substances causing a hazard either during the course of development or during the subsequent use of the site; and*
 - (d) where appropriate, adequate provision has been made for the continued monitoring of gas on site.*

Procedures

Planning conditions or legal agreements will be used to ensure that appropriate measures are incorporated into proposals to control the migration of gas and other mobile substances.

In dealing with planning applications on sites where it is known or suspected that land is affected by contamination and/or the proposed development is sensitive to contamination (for example, residential development, schools and allotments) a minimum of a desk study and site reconnaissance (Phase 1 Report) will be required with the planning application. The Phase 1 Report will assist in determining the need for and scope of further investigations, issues that may require remediation and whether remediation can be secured by means of planning conditions requiring the submission and implementation of a contaminated land investigation, remediation scheme and validation as appropriate.

Where the desk study and site reconnaissance does not provide sufficient information to assess the risks and appraise remediation options, further investigations will be required before the application is determined. A site investigation will also be required prior to determination if a proposed development will introduce a particularly sensitive land use on a potentially high risk site.

3.0 OVERALL AIMS OF THE STRATEGY

3.2 Objectives and Milestones

Within the broad aims of the Strategy, the Council has identified a number of specific objectives which it aims to undertake within certain timescales. The identification of definitive timescales for the entire inspection process is not possible at this stage as it will be highly dependent on the number and type of cases identified. When the Inspection Strategy was first produced provisional targets, actions and outputs together with possible external and internal partners were identified for the following objectives (see Table 3.1).

- Development of the Information Management System
- Collection of information on sources, pathways and receptors
- Establishment of areas of current and former Council owned/leased land
- Establishment of efficient liaison and information exchange mechanisms

These objectives have been met subject to any necessary updating as new information is identified.

Table 3.1 identifies ongoing work areas, and where possible, anticipated timescales.

Sites where urgent action is required may be identified at any stage during the implementation of the inspection strategy and therefore detailed inspections may be carried out on some areas of land before the preliminary inspection of the Borough is complete. The need to take action on such sites may influence the rate of progress in the overall programme.

Within the implementation of this strategy to achieve the Council's overall aims, there is a need for a flexible approach, addressing the sites which present the most serious risks as quickly as possible whilst balancing the requirement to assess the entire Borough area with available resources.

Table 3.1 Objectives and Timescales

Objective	Provisional Timescale/Target	Action	Output/Record	Possible Consultation (as required)
Development of Information Management System (IMS) <ul style="list-style-type: none"> • Input Module • Output Module • Evaluation Module and Integration • Database Module 	<ul style="list-style-type: none"> • Complete • Complete • Complete • Complete 	<ul style="list-style-type: none"> • Completion of necessary functionality of IMS • Subject to further development as necessary 	<ul style="list-style-type: none"> • IMS with required functionality 	<ul style="list-style-type: none"> • MIS • CLOG
Collection of appropriate Information on Sources, Pathways and Receptors	<ul style="list-style-type: none"> • Ongoing • Core/essential dataset list agreed pan-Merseyside • Data capture (potentially contaminative land uses) from pre-war maps complete • Data capture from post war maps complete • Data capture and collection of remaining core datasets is complete to date. 	<ul style="list-style-type: none"> • Collect appropriate information on sources, pathways and receptors etc • see Information Collection Procedure Section 5.3. • Subject to on-going review. 	<ul style="list-style-type: none"> • Information collated and stored on the IMS • Cross reference to information which cannot be stored on the IMS 	<ul style="list-style-type: none"> • Council Departments • Statutory Bodies • Others

Objective	Provisional Timescale/Target	Action	Output/Record	Consultation
Establishment of areas of land currently/previously owned or occupied by the Council	<ul style="list-style-type: none"> Complete 	<ul style="list-style-type: none"> Collate information on land currently or previously owned or occupied by the Council Information is held by The Property Management Group (Capita Symonds) accessed on a site specific basis. See Procedures regarding Local Authority Land, Section 4.2.4 and 5.2 	<ul style="list-style-type: none"> Information collated and stored on the IMS Cross reference to information which cannot be stored on the IMS 	<ul style="list-style-type: none"> Council Departments Current owners, occupiers and other interested parties
Establishment of efficient liaison and information exchange mechanisms (i) Internal (ii) External	<ul style="list-style-type: none"> Established and on-going 	<ul style="list-style-type: none"> Develop and implement procedures for liaison and information exchange – see General Liaison and Communication Strategies Section 6.0 	<ul style="list-style-type: none"> Procedures for liaison and information exchange are in place. 	<ul style="list-style-type: none"> Statutory Bodies Council Departments Owners Occupiers Other Interested Parties Wider community
Evaluation of information – initial screen	<ul style="list-style-type: none"> Complete 	<ul style="list-style-type: none"> See Information Evaluation Procedures Section 5.5 Includes land currently or previously owned/occupied by the Borough Council 	<ul style="list-style-type: none"> Initial site prioritisation (High, Medium and Low Priority) Record on IMS and related files Identification of possible Special Sites 	<ul style="list-style-type: none"> MIS Environment Agency Other statutory bodies

Objective	Provisional Timescale/Target	Action	Output/Record	Consultation
Further Evaluation to sub-prioritise groupings from initial screen – High, Medium and Low Priority Sites	<ul style="list-style-type: none"> • Complete 	<ul style="list-style-type: none"> • See Information Evaluation Procedures Section 5.5 • Includes land currently or previously owned/occupied by the Borough Council 	<ul style="list-style-type: none"> • Relative priorities of sites in initial High, Medium (and Low) groupings are kept under review • May result in revision of priority ranking for some sites • Record on IMS and related files • Identification of possible Special Sites 	<ul style="list-style-type: none"> • Statutory Bodies • Council Departments • Owners • Occupiers • Other Interested Parties • External contractors
Programme Detailed Inspections	<ul style="list-style-type: none"> • A rolling programme commenced in 2006. to include an Annual Review 	See Programme for Inspection Section 7.0	<ul style="list-style-type: none"> • Prioritised programme of sites which require further detailed inspection 	<ul style="list-style-type: none"> • Statutory Bodies • Council Departments • Owners • Occupiers • Other Interested Parties

Objective	Provisional Timescale/Target	Action	Output/Record	Consultation
Programme Detailed Inspections continued	<ul style="list-style-type: none"> • For sites where urgent action is needed- immediate and on-going. 	<ul style="list-style-type: none"> • See Programme for Inspection Section 7.0 	<ul style="list-style-type: none"> • Justifications • Inspection of Special Sites conducted by Environment Agency 	<ul style="list-style-type: none"> • Statutory Bodies • Council Departments • Owners • Occupiers • Other Interested Parties
Commence Detailed Inspections	<ul style="list-style-type: none"> • A rolling programme commenced in 2006 with Annual Review • For sites where urgent action is needed- immediate and on-going. • Inspection of urgent sites may be required at any time in the process 	<ul style="list-style-type: none"> • See Programme for Inspection Section 7.0 	<ul style="list-style-type: none"> • Determination whether site is contaminated land or not • Appropriate details on file/IMS • Appropriate details on Register 	<ul style="list-style-type: none"> • Statutory Bodies • Council Departments • Owners • Occupiers • Other Interested Parties • External contractors

4.0 PRIORITY ACTIONS AND TIMESCALES

4.3 Measuring Progress

Best Value Performance Indicators BV216a and BV216b have been discontinued due to differing interpretation of guidance by local authorities which meant that it was not possible to compare performance between authorities.

Performance targets for delivery of Part 2A work are set within the Environmental & Technical Services Department Business Plan; performance against the target is monitored on a quarterly basis.

5.0 PROCEDURES

5.1 Internal Management arrangements for inspection and identification

The purpose of this section is to outline responsibilities within the Council for inspection and identification.

A corporate approach is fundamental to the successful implementation of this strategy. It is anticipated that most of the Departments within the Council will be involved to some degree during the process of identification and determination of contaminated land.

Detailed procedures have been developed setting out how the Council's inspection duties will be fulfilled; these are presented in the latter part of this Section and in subsequent Sections of the Strategy document.

Existing links between key Departments, including the Environmental and Technical Services Department, Planning and Economic Development Department and other relevant Departments in respect of contaminated land will be reviewed and enhanced.

At the time of writing, the Departmental structures are in flux owing to the Transforming Sefton agenda; the functions of key sections in the implementation of the strategy are summarised below.

Specifically on a day to day basis, the following sections will have key roles.

Environment Section

The Environment Section has the lead role in the implementation of the Contaminated Land Inspection Strategy with Merseyside EAS.

In co-operation with other Council Departments and external agencies as appropriate, the Environment Section is responsible for all aspects of the implementation of the Contaminated Land Inspection Strategy; these include:

- Information collection and evaluation

- Liaison and communication
- Carrying out detailed inspections
- Making determinations
- Reviewing decisions and the Strategy document itself
- Carrying out any necessary enforcement actions
- Production and maintenance of the Public Register

The Planning and Economic Development Department has a number of related functions which are relevant to the management of land contamination, including the development of plans for future environmental, physical and economic regeneration of the Borough.

The Development Control Section

The Development Control Section deals with planning applications for development where issues of land contamination must be considered. The majority of contaminated land issues are currently addressed through the planning regime, where contamination is a material planning consideration. Whilst the introduction of Part 2A will undoubtedly lead to additional sites being addressed, it is anticipated that redevelopment of brownfield sites, and the associated planning controls, will remain the primary mechanism for dealing with land contamination. Any remediation agreed as a planning condition will be dealt with under planning controls and not under Part 2A.

The Building Control Section

The Building Control Section has a duty to enforce protection measures in new build projects to mitigate the impact of contamination on property. Activities relevant to the implementation of the Inspection Strategy include:

- Enforcement of protection measures to new buildings;
- Collation and recording of site investigation information;
- Information management in line with agreed procedures;
- Provision of technical advice.

Legal Services

The Legal Services will provide legal advice on the complex and wide ranging issues arising from the implementation of the Part 2A regime, including:

- Interpretation of legislation
- Identification and determination of contaminated land and Special Sites
- Remediation of contaminated land
- Exclusion from, and apportionment of, liability for remediation
- The recovery of costs of remediation and the relief from hardship

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- Contents of, and arrangements for, serving remediation notices
- Compensation to third parties for granting rights of entry
- Grounds of appeal against remediation notices, and procedures relating to such appeals
- Particulars to be contained in registers
- Information management and provision
- Advice with regard to Council owned land and other land where the Council may be an appropriate person.

Merseyside Environmental Advisory Service

The Merseyside Environmental Advisory Service, in close co-operation with the Planning & Economic Development Department and the Environmental & Technical Services Department, will be responsible for providing technical advice and support in the implementation of the Strategy. This will include site identification and risk assessment of priority sites.

Other Departments of the Council, including those identified below and all land owning Departments of the Council, will be involved at various stages as providers of information and/or advice and through current or former land ownership.

Leisure and Tourism

In the context of action needed in respect of land that may be contaminated under their control or ownership.

Housing Market Renewal Team

The Housing Market Renewal (HMR) Team delivers and monitors Sefton's Housing Market Renewal Programme. Activities relevant to land affected by contamination include commissioning and managing the purchase and development of derelict or underused land to provide viable space which can be used for housebuilding.

Through the HMR Programme, some of the highest priority sites for inspection are being dealt with.

Capita Symonds

Through partnership arrangements with the Council, relevant activities/services include:

- Liabilities associated with and action needed with respect to the Council's own land holdings;

- Management of the Council's property portfolio including acquisition, disposal, lease agreements and valuations; and
- Feasibility, design and project management of multidisciplinary major engineering and building projects;
- Architectural feasibility and design, project management, QS services and contract supervision for a range of large and small building projects.

Other Council Departments

In the context of the implications of investigation and identification of contaminated land in relation to existing and proposed housing development.

5.5 Information Evaluation

5.5.3 Specific Risk Assessment and Guideline Values

5.5.3.1 Human Health

Methodologies and guidance values available for estimation of potential risks to human health include the following.

Contaminated Land Exposure Assessment (CLEA) Framework

The CLEA 2002 guidance was published in the form of The Contaminated Land Exposure Assessment (CLEA) protocol. These guidelines consisted of a series of guidance documents: Contaminated Land Reports (CLR) 7 – 10^{10 11 12 13 14 15}, Soil Guideline Values (SGVs) and Toxicological Reports (TOX) issued by the Environment Agency on behalf of Defra. In August 2008, the Environment Agency withdrew all of the current CLR 7 to 10 documents and all existing SGVs since they were no longer considered to reflect the current UK human health risk assessment approach.

¹⁰ CLR 7: Assessment of risks to human health from contamination. An overview of the development of guideline values and related research, Defra and Environment Agency , 2002.

¹¹ CLR 8: Potential Contaminants for the assessment of land, Defra and Environment Agency , 2002.

¹² CLR 9: Contaminants in Soil. Collation of toxicological data and intake values for humans, Defra and Environment Agency , 2002.

¹³ Toxicological Reports

¹⁴ CLR10: The Contaminated Land Assessment Exposure (CLEA) Model. Technical Basis and algorithms, Defra and Environment Agency , 2002.

¹⁵ Soil Guideline Value Reports

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A revised version of the CLEA framework was published by the Environment Agency in January 2009 with the aim of helping in the assessment of potential risks to human health from long-term exposure to soil contamination. The revised CLEA guidance includes:

- A Review of Body Weight and Height Data used within the Contaminated Land Exposure Assessment Model (CLEA) (Science Report SC050021/SR1).
- Human Health Toxicological Assessment of Contaminants in Soil (Science Report SC050021/SR2) which replaces CLR 9.
- Updated Technical Background to the CLEA Model (Science Report SC050021/SR3) which replaces CLR10.
- CLEA Software Version 1.06 and CLEA Software (Version 1.05) Handbook, Science Report: SC050021/SR4.

The Environment Agency has also published new Soil Guideline Value (SGV) reports and associated TOX reports for eleven substances; further reports are anticipated in the future. As new TOX reports are issued using the new approach, the relevant existing report will be withdrawn.

The updated guidance documents are intended to provide regulators, developers, land owners and other interested parties with relevant, appropriate, authoritative and scientifically based information and advice on the assessment of risks arising from the presence of contamination in soil.

It is important to note the Health Criteria Values (which describe the level at which long term human health exposure to chemicals in soil is tolerable or poses minimal risk) and SGVs do not represent the trigger for an unacceptable intake; they are based on minimal risks to health. SGVs represent trigger values above which there might be a significant possibility of significant harm (SPOSH), with the significance linked to the margin of exceedence, the duration and frequency of exposure and other site and contaminant specific factors that the enforcing authority may wish to take into account. In most cases further investigation and evaluation of risk will be required.

Other Generally Accepted Guidelines

In addition to CLEA guidelines reference may also be made to other accepted sources including:-

- Occupational exposure levels issues by the Health and Safety Executive;
- Environment Agency site specific pollution prevention guidelines from authoritative sources;
- Guidance issued by the Construction Industry Research and Information Association (CIRIA);
- Other risk assessment tools such as, RBCA, RISC and SNIFFER.

**Interdepartmental Committee on the Redevelopment of Contaminated Land (1987)
Guidance on the Assessment and Redevelopment of Contaminated Land ICRL
59/83 (2nd Edition)**

This document, **now withdrawn**, set out a systematic approach for the assessment of contaminated sites. The guidance included threshold and action trigger concentrations for a range of contaminants which depend on the intended use of the site. The document and the threshold and action trigger levels presented within it have been widely used in the assessment of contaminated land. **The Council does not accept the use of these assessment criteria.**

5.6 Interaction with other Regimes

5.6.2 Pollution Prevention and Control (PPC) –The Pollution Prevention and Control Act 1999 and The Pollution Prevention and Control Regulations 2000 (now incorporated into the framework of the Environmental Permitting Regulations 2007)

Under the Integrated Pollution Prevention and Control (IPPC) legislation a site condition survey prior to receiving a permit to operate.

Sites regulated under the IPPC regime, which become contaminated will generally be regulated under this power¹⁶. The Council is precluded from serving a remediation notice if it appears that the powers of the relevant enforcing authority under The Pollution Prevention and Control Regulations can be used. There may, however, be situations where Part 2A powers are needed.

Land determined to be contaminated land which is subject to regulation under the IPPC regime, where the installation is designated for central control (that is by the Environment Agency), is required to be designated as a Special Site.

An exception to the above is that historical contamination present prior to the permit being issued under IPPC is dealt with under Part 2A powers.

5.6.3 The Environmental Damage (Prevention and Remediation) Regulations 2009 (SI 2009 No. 153)

The Environmental Damage Regulations 2009 came into force on 1st March 2009, they implement the European Environmental Liability Directive 2004/35/EC. They are based on the polluter pays principle requiring those responsible to prevent and remedy damage.

¹⁶ Regulation 12 - The Pollution Prevention and Control (England and Wales) Regulations 2000.

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The regulations only apply where the environmental damage and the activity that caused it has occurred or requires preventing after the regulations came into force and they only apply to operators of economic activities.

Environmental Damage has a specific meaning within the regulations and it only refers to;

- Damage to Land
- Damage to Water
- Damage to Ecosystems

Local authorities are the enforcing authority in relation to damage to land; the damage must result in a significant risk of adverse effects on human health. DEFRA have released non statutory guidance entitled *The Environmental Damage (Prevention and Remediation) Regulations 2009, 2nd Update* dated November 2009.

Operators should inform the relevant enforcing authorities if possible environmental damage occurs, enforcing authorities can require information from operators, serve prevention and/ or remediation notices on operators to require certain action to be taken.

There are offences for:

- Failing immediately to take all practicable steps to prevent damage or notify the authority where there is an imminent threat of environmental damage (or of damage that there are reasonable grounds to believe will become environmental damage).
- Failing immediately to prevent further damage or notify the authority where the operator of an activity has caused environmental damage or has caused damage where there are reasonable grounds to believe that the damage is or will become environmental damage'.
- Failing to comply with a notice to prevent damage or further damage;
- Failing to comply with a remediation notice;
- Failing to provide information pursuant to these Regulations required by an authority;
- Failing to comply with instructions given under Regulation 31 (powers of entry etc.);
- Providing false or misleading information to an authorised officer.

Enforcing authorities can recover costs from operators in accordance with the regulations. Operators of economic activities should be aware that pollution of land may incur a liability under both the Environmental Damage Regulations 2009 and Part 2A of the EPA 1990.

If pollution of the land is observed or there is an imminent risk of pollution occurring this should be reported to the Environmental & Technical Services Department.

6.0 GENERAL LIAISON AND COMMUNICATION STRATEGIES

6.7 The Wider Community

Within this context, the term wider community includes all possible groups and organisations, local residents, businesses and industry, voluntary organisations and community bodies.

Land affected by contamination may be of relevance to members of the community other than owners and occupiers. The use and condition of land may impact on the wider community especially if the contamination poses a risk to human health. For those affected by contamination, the Council will endeavor to:

- inform the affected parties of potential risks arising from contamination;
- consult on proposed actions in relation to contaminated land;
- keep affected parties informed of decisions taken.

The Council recognises the importance of making decisions about contaminated land matters that are accepted by the community and are both defensible and transparent.

If practicable, and indeed necessary the findings of any inspection will be communicated to the affected community and consultations undertaken on the best way to achieve the successful remediation of the contaminated land problem.

7.0 PROGRAMME FOR INSPECTIONS

7.2 Arrangements for Carrying Out Detailed Inspection

7.2.1 Compliance with Statutory Guidance

Where detailed inspection of land is necessary, such inspections will be undertaken in accordance with the Statutory Guidance in particular paragraphs B.19 to B.25 and B.26 to B.30.

Detailed inspection may include any or all of the following:

- The collation and assessment of documentary information, or other information from other bodies;
- A site visit for the purposes of visual inspection and, in some cases, limited sampling;
- Intrusive site investigation of the land involving the sampling and analysis of soils and/or groundwater.

As required by the statutory guidance, the information gathered during detailed inspection will include, in particular, evidence of the actual presence of a pollutant.

Investigations will be undertaken in accordance with appropriate technical procedures. The nature and degree of investigation will be determined on a site specific basis. However, in all cases the principles and practices contained within Defra and Environment Agency sponsored technical guidance and other good practice publications will be adopted. The guidance utilised will be kept under review to ensure that the most appropriate and up-to date advice is followed.

In conducting site investigations, all reasonable precautions will be taken to avoid harm, water pollution or damage to natural resources or features of historical or archaeological interest; the advice of appropriate regulatory authorities will be sought.

In accordance with recognised good practice, appropriately phased site investigations will be undertaken. If at any stage the results of such investigations demonstrate that there is no longer a reasonable possibility that a pollutant linkage exists, no further detailed inspection will be undertaken with respect to that pollutant linkage.

The process of detailed inspection only terminates when the Council considers it has sufficient information before it to determine the site as statutory contaminated land or not.

8.0 REVIEW MECHANISMS

8.2 Triggers for Reviewing Decisions

There will inevitably be situations where changes in the condition or circumstances of the land or the surrounding environment may necessitate a review of the previous inspection findings for a particular area. A number of such triggers have been identified and are set out below; it is also possible that further triggers will be identified during the course of implementation of this strategy.

Triggers for the Review of Inspection Decisions include:

- Significant changes in legislation;
- Proposed changes in the use of the surrounding land;
- Unplanned changes in the use of the land;
- Unplanned events (eg localised flooding, fires, spillages) where the consequences cannot be dealt with through other relevant environmental protection legislation;
- Reports of localised health effects which appear to relate to a particular area of land;
- Response to information or complaints from members of the public, businesses or voluntary organisations;
- Information from other statutory bodies, landowners or occupiers and other relevant interested parties;

- Changes in national guidance relating to specific types of site or contaminant.

Mechanisms to ensure the receipt of appropriate and timely information from other departments of the Council, statutory bodies, owners, occupiers and other interested parties are detailed within this strategy document. Procedures are also identified for responding to information and complaints from members of the public, businesses or voluntary organisations. Such mechanisms are essential to facilitate effective review.

Information obtained and records of decisions made during the course of such reviews will be managed utilising the Contaminated Land Information Management System.

Whilst the above factors may trigger inspection of particular areas of land, it is important that such inspections do not significantly interfere with the general inspection framework. The relative priority of such inspections will be considered along with those of planned inspections such that they may be undertaken in an appropriate order. In considering this issue, the Council will ensure its approach is consistent with the underlying principles set out in the Statutory Guidance.

8.3 Review of Inspection Strategy

The practical implementation of this strategy will provide vital information on its effectiveness (a) in ensuring that resources are being used efficiently and (b) in meeting the requirements of the legislation.

In addition, information obtained during the course of implementation may indicate that the approach adopted with respect to certain issues should be modified.

As part of the overall quality management of this work, the Council will review the inspection procedures set out within this Strategy on a regular basis and ensure that any necessary modifications are undertaken.

This, the third review of the strategy, has been undertaken to report progress and update sections of the document as appropriate. The Strategy was first reviewed in November/December 2002 with a second review taking place in September 2006.

The priorities and procedures set out within the Inspection Strategy have not been substantively revised.

This revised version of the Contaminated Land Inspection Strategy implements the changes following the third review.

Subsequent reviews will take place on a three yearly cycle.

9.0 INFORMATION MANAGEMENT

9.4.1 Public Register

The regime provides for a public register, but only of land in respect of which a remediation notice has been issued, or where a remediation statement or declaration has been published. This information will be available for public inspection subject to any exclusions, for example, on the grounds of national security or commercial confidentiality. The details of information to be included on the Public Register are set out in The Contaminated Land (England) Regulations 2006. These are:

- Remediation notices
- Appeals against remediation notices
- Remediation Declarations
- Remediation Statements
- Appeals against charging notices
- Designation of Special Sites
- Notification of claimed remediation
- Convictions
- Guidance issued by the Environment Agency
- Other environmental controls

The Public Register is available for inspection at Magdalen House, 30 Trinity Road, Bootle L20 3NJ on Monday to Friday between the hours of 9am and 4pm. The Public Register is currently held in paper form. Consideration is also being given to making the public register available on the Council website.