



**EAST RIDING**  
OF YORKSHIRE COUNCIL

# **CONTAMINATED LAND INSPECTION STRATEGY**

**Re-published April 2021**

## EXECUTIVE SUMMARY

This Strategy outlines how East Riding of Yorkshire Council plans to carry out its statutory duties of collating and reviewing information on land which may have been affected by contamination, in order to identify contaminated land in the area that meets the statutory definition. It sets out the process of strategic and detailed inspection. The council's original Strategy for the inspection of contaminated land was published in 2001 and has been reviewed periodically. The council will continue to review the current Strategy periodically and formally every 5 years and will present the document to Cabinet for approval.

There is a substantial legacy of contaminated land in the United Kingdom, due to its long industrial heritage and previous waste disposal practices. Although there are now various regimes in place to prevent new contamination occurring, the historic contamination which remains in the environment still has the potential to adversely affect people's health, as well as damage water quality, ecological systems and property. It is expected that most contaminated land will be cleaned up voluntarily, for example through the redevelopment of land as part of the planning process. However, where land is deemed unsuitable for its current use due to a significant risk from contamination, it may be necessary for the council to intervene and ensure that those risks are properly mitigated.

This Strategy summarises the key principles and objectives of the contaminated land regime, and the council's priorities. It describes how the council has gone about identifying potentially contaminated land in its area, and how these sites are categorised during more detailed inspection. It also outlines the steps that are taken in determining contaminated land, and establishing liability for remediating the land, in accordance with government guidance. The current revision of the document includes updates on the legislation and guidance since the previous version was published in 2013. It also sets out our aims and objectives for the future and the importance of partnership working in meeting the wider aims of the Strategy.

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## GLOSSARY OF TERMS

## 1.0 INTRODUCTION

Without proper regulation and management, there is the potential for the environment and people's health to be adversely affected by certain land uses and activities, such as hazardous industrial and agricultural processes, poor waste disposal practices, chemical spills and fuel leaks. Although there are now better controls in place to prevent or mitigate these impacts, there is still a legacy of contaminated land in the UK affected by substances, such as heavy metals, oils, tars, solvents, gases and asbestos, as a result of historic activities.

Part 2A of the Environmental Protection Act (EPA) 1990 was introduced in April 2000, to give local authorities specific duties to identify and deal with these potentially contaminated sites, where unacceptable risks to human health, environment or property were present but there was no alternative means for dealing with them. The contaminated land regulations were widened in August 2006 to cover radioactive substances.

On 6 April 2012, revised Statutory Guidance on the non-radioactive contaminated land regime under Part 2A of the EPA 1990 was published by the Department for Environment, Food and Rural Affairs (Defra) and came into effect. The revised Statutory Guidance on the radioactive contaminated land regime under Part 2A was also published by the Department for Business, Energy & Industrial Strategy (BEIS), formerly known as the Department of Energy and Climate Change (DECC), and came into effect at the same time (and updated in 2018). This revised Statutory Guidance is taken into account in this Strategy.

### 1.1 What is contaminated land?

Land is legally defined as 'contaminated land' \* where substances are causing or could cause:

- Significant harm to people, property or protected species

- Significant pollution of surface waters (for example lakes and rivers) or groundwater
- Harm to people as a result of radioactivity.

\*See Section 78(A) Environmental Protection Act 1990 for legal definition detail.

‘Substances’ are defined as any natural or artificial substance, whether in solid or liquid form, or in the form of a gas or vapour. Significant harm includes, amongst other things, death, serious disease or illness, irreversible change to an ecosystem, a substantial loss of crops or substantial damage to property. Significant pollution of controlled waters includes certain damage or deterioration in the quality of surface water or groundwater. Further detail on these definitions is provided in the Statutory Guidance available on the GOV.UK website<sup>1</sup>.

The definition for radioactive contaminated land is slightly different. Harm in this context is defined as lasting exposure to any person resulting from the after-effects of a radiological emergency, past practice or past work activity. The statutory guidance for radioactive contaminated land is available on the GOV.UK website<sup>2</sup>.

Where an industrial use is ongoing, the land may be deemed to be suitable for that current use and not likely to cause significant harm or significant pollution. However, many former industrial sites have been redeveloped for a more sensitive use, such as housing or recreation. These land uses may be adversely affected by the presence of contamination and would require further assessment.

The role of the contaminated land regime is to enable the identification and remediation of land where contamination is causing unacceptable risks to

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<sup>1</sup> <https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>

<sup>2</sup> <https://www.gov.uk/government/publications/statutory-guidance-covering-radioactive-contaminated-land>

human health or the environment. It does not necessarily include all land where contamination is present. Remediation means taking steps to prevent, minimise, remedy or mitigate the effects of significant harm or significant pollution.

Every local authority has a legal duty to inspect its area from time to time in order to identify contaminated land. East Riding of Yorkshire Council's duties under Part 2A are primarily undertaken by the specialist environmental control team within the Public Protection service.

For certain categories of site determined as contaminated land, the Environment Agency is the enforcing authority. These are known as 'special sites', and include contaminated land resulting from waste acid tars, petroleum refining, manufacture of explosives, nuclear sites, sites operated by the Ministry of Defence, or involving chemical or biological weapons, as well as land affecting controlled waters in certain cases. More detail on special sites is provided on the GOV.UK website<sup>3</sup>.

## 1.2 Government policy

The UK government has produced Statutory Guidance that local authorities must follow when carrying out their duties under Part 2A. The starting point should be that land is not contaminated unless there is reason to consider otherwise. Part 2A is intended to deal with the worst sites, where no appropriate alternative solution is available. The council must always consider the benefits and the costs of taking action under Part 2A, to ensure that intervention is both precautionary and proportionate.

The government's main policy objectives with respect to contaminated land are:

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<sup>3</sup> <https://www.gov.uk/contaminated-land>

- To identify and remove unacceptable risks to human health and the environment
- To seek to bring damaged land back into beneficial use
- To seek to ensure that the cost burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable.

### **1.3 Aims and objectives**

The aim of this Strategy is to set out how the council intends to implement its responsibilities under Part 2A, in accordance with Statutory Guidance, and how it fits in with other regulatory systems. The Statutory Guidance states that local authorities should take a strategic approach for carrying out its duties under Part 2A and should adopt a written strategy for inspecting their areas.

The strategic approach should aim to:

- Be rational, ordered and efficient.
- Be proportionate to the seriousness of any actual or potential risk.
- Seek to ensure that the most pressing and serious problems are located first.
- Ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land.
- Ensure that the council efficiently identifies requirements for the detailed inspection of particular areas of land.

The principal objectives of the inspection strategy are:

- To meet the statutory obligation placed on the council to produce a written strategy under Part 2A.

- To provide a strategic framework which the council will use to identify, inspect and determine contaminated land, and describe the measures that may be taken to remediate such land.
- To describe how the council will prioritise and categorise sites.
- To inform the public, and improve communication with stakeholders, of the council's intentions in relation to contaminated land.
- To ensure that the council's corporate priorities and ambitions will be achieved by adopting this Strategy, in particular valuing our environment and revitalising our communities, by removing unacceptable risks to human health and the environment.

#### **1.4 Review and progress**

The council's original contaminated land inspection strategy was published in 2001, following the introduction of Part 2A in April 2000. The strategy was reviewed in 2003 and again in 2005, to report the progress of detailed site inspections and the ongoing development of the contaminated land geographical information system (GIS), and incorporate updates to risk assessment tools.

As part of the original inspection strategy, the council completed its initial prioritisation of higher-risk sites, using the Contaminated Land Assessment Risk Analyst (CLARA) model. Although considerable progress was made in identifying and risk assessing potentially contaminated land, particularly with regards to closed landfill sites, experience has shown that the CLARA model was not sufficiently sensitive for the council's purposes when considering other risks to human health.

Therefore, in 2008 the council adopted a new GIS-based prioritisation tool developed by the British Geological Survey (BGS), called ConSEPT (Contaminated Site Evaluation Prioritisation Tool), which is discussed further in section 4.4.1.

By 2008/09, thirteen properties had been determined as contaminated land, and subsequently remediated, and around fifty detailed inspections of priority sites had also been completed where no evidence of significant risks were identified.

A full review of the strategy was undertaken in 2010, following changes in the council's approach to prioritisation, as well as changes in national policy. The 2010 strategy was amended in 2013 to reflect the government's revised Statutory Guidance and further changes to risk assessment methodologies.

This current Strategy replaces the 2013 publication, and will continue to be reviewed at least every five years. Where necessary, other services within the council will be consulted on the review of the Strategy, before it is approved and re-published. The review process may lead to amendments to the inspection plan, in light of existing workloads, available budgets and staffing resources.

## 1.5 East Riding Council's vision and priorities

When preparing its plans and strategies, the council aims to reflect its vision statement and broader corporate priorities, and to build on individual service standards.

In September 2018 the council launched a new vision statement – ***Your East Riding... where everyone matters*** – as well as revised priorities and new values and behaviours. The vision, priorities, values and behaviours help the council meet its challenges and make the most of opportunities, now and in the future. The following priorities show how the council will achieve this vision:

- **Growing the economy** – working with others to support sustainable economic growth and strong communities, ensuring the East Riding is a great place to invest in, live, work and visit.

- **Valuing the environment** – responding to climate change, developing our infrastructure and safeguarding our heritage.
- **Promoting healthy lifestyles** – helping people to stay healthy, strong and fit for the future.
- **Protecting the vulnerable** – supporting in times of need, protecting from harm and improving the quality of life.
- **Helping children and young people achieve** – supporting and inspiring children to raise their aspirations and reach their potential.

These are consistent with the government’s objectives for the contaminated land regime, such as reducing health risks and improving environmental and economic sustainability. The emphasis of the legislation and Strategy is on the prioritisation of effort and resources being towards sites representing the greatest risk.

In undertaking its duties under Part 2A, the council will also follow its public protection enforcement policy, a copy of which is available on the council’s website<sup>4</sup>. This sets out the arrangements that the council has put in place for ensuring compliance with the laws enforced by public protection services, including environmental protection.

## **1.6 Managing risks**

Risk can be defined as a combination of the likelihood of an event occurring and its potential impact. It’s important that the council identifies and manages potential risks associated with achieving its objectives.

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<sup>4</sup> <https://www.eastriding.gov.uk/council/plans-and-policies/public-protection-enforcement-policy/>

In terms of this Strategy, examples of risks which could have a negative impact on its delivery include reduction of resources, such as budgets or staff, changes in law or statutory guidance, making decisions based on incomplete or wrong information, and potential legal challenges to the decisions or actions of the council when carrying out its duties under Part 2A. The identification and management of risk is key to a more informed and effective decision making process.

Risk cannot usually be eliminated completely, and so control measures need to be put in place to reduce identified risks to an acceptable level. A risk management analysis was previously undertaken for delivering the Strategy, to allow the relative ranking and prioritisation of identified risks, and to identify mitigating controls. The outcomes of the risk management process will be periodically reviewed alongside the Strategy. Risk analysis for the implementation of the Strategy will also be undertaken at a project specific level, and a risk register produced where necessary.

## **1.7 Equality and human rights**

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The Act sets out the protected characteristics which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Public Sector Equality Duty (PSED) also means that public bodies have a duty to consider all individuals when carrying out their day-to-day work in shaping policy, in delivering services and in relation to their own employees. Public bodies must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people.

The council is committed to fulfilling its role as an employer, service provider, purchaser of goods and services and community leader without discrimination.

Further details are provided in the council's equalities plan, which is available on the council's website<sup>5</sup>.

The council has an updated 'Equality Analysis' process to identify if a proposed change (a change to a policy, strategy, service, or budget) could have a potential impact (create inequality or increase existing inequalities) for people with a protected characteristic. This includes service users, residents, and council employees. In developing this Strategy, an equality analysis screening assessment has been completed. A full equalities impact assessment was deemed not to be required for this Strategy, there being no specific adverse impacts on any protected characteristic group(s) identified. If, at any time, this Strategy is considered to be discriminatory in any way, the environmental control manager should be contacted immediately to discuss such concerns.

Under the provisions of article 8 of the Human Rights Act, everyone has the right to respect for their private and family life, their home and their correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others.

The three main principles that the council will adhere to in order to comply with article 8 during the course of its investigations into contaminated land are:

- The council will only undertake actions which are securely authorised by law. The rule under law authorising those actions will be sufficiently accessible by the subject of the council's actions and the manner of the

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<sup>5</sup> <https://www.eastriding.gov.uk/council/plans-and-policies/other-plans-and-policies-information/equalities-and-diversity/>

exercise of those actions will have pre-determined limits to protect the public from arbitrary interference.

- The council will only act for a prescribed purpose and its actions will be proportionate.
- The council will only take action which it deems to be necessary in the interests of public safety, the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others.

## 2.0 THE EAST RIDING OF YORKSHIRE

### 2.1 Location and geography

The East Riding of Yorkshire is situated in the northeast of England, on the North Sea coast. The area is bounded to the north and west by North Yorkshire, and to the south by Doncaster, North Lincolnshire and Hull. The rivers Derwent/Ouse and Humber form the western and southern boundaries respectively, with the eastern boundary forming the Holderness coastline with the North Sea.

Much of the area is low-lying, with some land at risk from flooding, but it also includes the upland rolling chalk hills of the Yorkshire Wolds. The Holderness coastline begins at the chalk cliffs of Flamborough Head and extends 85 km south to Spurn Point at the mouth of the Humber estuary. The coastline is mostly composed of clay, and exhibits some of the fastest rates of coastal erosion in Europe (on average between 1.5-2.5 metres per year). The council's policy for managing the coastline and responding to coastal erosion and flood risk is set out in the Shoreline Management Plan, which is available on the council's website<sup>6</sup>.

The East Riding is connected to the motorway network via the M62, and there are two main railway lines from Hull to Doncaster and Leeds, and from Hull to Scarborough, which connect various towns and villages. There is a major port at Goole with shipping traffic using the Humber and Ouse rivers.

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<sup>6</sup> <https://www.eastriding.gov.uk/council/plans-and-policies/other-plans-and-policies-information/sustainable-environment-policies-and-strategies/>



**Figure I– Map of the East Riding**

## 2.2 Size and population

- The East Riding of Yorkshire covers approximately 930 square miles, making it one of the largest unitary authority areas in the country.
- It has a population of approximately 341,000.
- The East Riding is a predominately rural area with over half the population living in dispersed rural communities. In total, there are 333 settlements, ranging from large towns to small, isolated hamlets and farmsteads.
- The largest town in the East Riding is Bridlington, other major settlements are Beverley, Goole and the Haltemprice area to the west of Hull which includes Cottingham, Hessle, Anlaby, Willerby, and Kirk Ella.
- The East Riding is generally an affluent area and is ranked amongst the least socially deprived areas in England.
- There are pockets of deprivation in places such as Bridlington, Goole and south-east Holderness.
- Increasingly, the East Riding population is becoming older, in part due to migration by retired people, particularly to coastal resorts.

- In terms of housing, the relative affordability of the area means a high proportion of households are owner/occupied.

### **2.3 Industrial development**

Traditionally the area has been associated with agriculture – 90% of the land is still in some form of agricultural use. Fishing too has historically always been important to the area's identity and economy. Tourism is now an increasingly important part of the coastal and rural economy.

The river ports along the Humber and Ouse have long been associated with the handling of coal, timber and other raw materials, and various shipworks have existed in the Goole and Hull areas. Agriculture, associated industries and rural trades were widespread throughout the 19th and early 20th centuries, such as blacksmiths, millers, tanners, malters, brewers, abattoirs, rope makers, and agricultural engineers. Beverley, in particular, was historically a major centre for the tanning industry.

Limestone historically provided the only locally available durable building stone. The chalk uplands of the Wolds therefore became dotted with quarries, many of which have been subsequently used for the unregulated disposal of waste by landfill. As limestone gave way to brick as the principle building material, brickworks and tileworks became established in the areas of glacial clay deposits, the resulting excavations also being subsequently used for waste disposal in many instances. There are still operational sand and gravel pits in the area.

Chalk also provided the raw material for the manufacture of whiting, used in paints, and there are still operational whiting works located near Melton, Beverley and Middleton on the Wolds.

There are several former railway lines that previously crossed the East Riding, but which are now disused, including York to Beverley via Pocklington and

Market Weighton, Selby to Beverley via Holme on Spalding Moor and Market Weighton, and Hull to Hornsea and Withernsea. Some disused lines have been adopted by the council for use as footpaths and cycle paths.

There are around 35 former gasworks in the East Riding, which manufactured and supplied gas to various settlements and private estates. However, since the arrival of piped natural gas, most of these sites became redundant. Some sites have been retained for gas storage or as gas valve compounds. Others have since been sold off and redeveloped, or voluntarily remediated by their current owners to make them suitable for use.

Industry is now found in pockets close to the main towns, with industrial estates often occupying former Second World War airfields and defence land, such as at Carnaby, near Bridlington, Driffield, Pocklington and Full Sutton. More recently, manufacturing and distribution hubs and business parks have been developed along the M62/A63 transport corridor at Goole, Newport, Melton and Hessle. The main industrial land uses today include food and drink manufacture, handling of raw materials such as timber, chemical manufacture, transport and distribution, agricultural and aeronautical engineering, mineral products, and natural gas refining.

Due to the nature of its landscape and its proximity to the North Sea, the East Riding has seen an increase in demand for development in the energy sector. This includes onshore and offshore windfarms and other renewable energy such as biomass, as well pipelines and storage facilities for natural gas.

## **2.4 Geology and hydrogeology**

There are various geological characteristics found across the East Riding. The oldest rocks are the sandstones and mudstones located in the west of the area, which include the Sherwood Sandstone formation. Moving east, these were followed by shales, sandstone and limestone deposits, including the chalk which

forms the Yorkshire Wolds. More recent glacial and alluvial deposits can be found on the lower lying areas, and comprise sands, gravels, silts and clays.

Areas of naturally occurring metal enriched soils are identified in the British Geological Survey's Regional Geochemical Atlas, which includes arsenic, nickel, barium, and cadmium.

The main groundwater resources within the East Riding comprise the principal chalk aquifer, which runs in a broad sweep from Flamborough Head in the north to the Humber Estuary in the south, and the principal Sherwood Sandstone aquifer to the south west of Goole.

The region is entirely dependent upon groundwater for public water supplies and there are a number of groundwater source protection zones situated within the East Riding, where public supplies are considered to be particularly vulnerable to pollution. There are also many private water supplies currently in use, comprising boreholes, wells and springs.

## **2.5 Ecology**

Part 2A enables local authorities to take action to prevent significant harm to protected species and ecological systems from land contamination. The East Riding has many nature conservation sites which are designated because of their international or national ecological or scientific importance. These include the Humber Estuary, Flamborough Head, and the Lower Derwent Valley, which have a number of nature conservation designations under UK and International law. There are also a number of local sites and nature reserves, as well as sites of special scientific interest, which provide important habitats for local wildlife.

The East Riding of Yorkshire Biodiversity Action Plan (ERYBAP) strategy was adopted in 2010, and sets out what is special about the biodiversity of the East Riding and what action will be taken, through partnership work, to conserve

priority species and habitats. A number of these species and habitats are already legally protected, and threatened. Natural England is the government advisor on the natural environment. When considering if land is contaminated, the council will consult Natural England in cases involving ecological systems, to determine what constitutes ecological harm, and will if necessary also liaise with the council's own biodiversity officers and other local conservation groups.

## **2.6 Historic buildings, ancient monuments and archaeology**

Buildings, property, ancient monuments and important archaeological sites are also classed as 'relevant receptors' under Part 2A. The East Riding has an important and diverse built heritage. There are over 2,500 listed buildings within the East Riding and over 100 of these are listed as Grade I - buildings of outstanding or national architectural or historic interest. There are also 106 Conservation Areas within East Riding towns and villages, which require preservation and enhancement, and numerous parks, gardens and other sites of historic interest which appear on Historic England registers.

The Humber Historic Environment Record (HER) includes all known heritage assets and historic landscapes within the East Riding of Yorkshire, such as archaeological sites, historic buildings and landscape features that date from the prehistoric period through to the 20th century. When planning any intrusive site investigation or remediation work, the council will have due regard for such receptors, and where necessary will consult the Humber Archaeological Partnership, who manage the HER, and the council's building conservation team, in order to identify any constraints at an early stage.

## 3.0 THE CONTAMINATED LAND REGIME

### 3.1 Government guidance and regulations

Part 2A is supported by statutory guidance, the Contaminated Land (England) Regulations 2006, and the Contaminated Land (England) (Amendment) Regulations 2012. Section 86 of the Water Act 2003, which was introduced in February 2012 by way of a commencement order, amended the definition of contaminated land in relation to pollution of controlled waters.

Revised contaminated land statutory guidance was published by the Department for Environment, Food and Rural Affairs (Defra) in April 2012. The Statutory Guidance sets out the Government's policy and provides guidance to local authorities which must be followed when implementing Part 2A. The regime was extended in 2006 to include radioactive contaminated land. Updated statutory guidance on radioactive contaminated land was published in April 2012 by the former Department of Energy and Climate Change (DECC).

The following non-statutory technical guidance is also considered to be relevant to Part 2A:

- Land Contamination Risk Management (LCRM) - Environment Agency, 2020<sup>7</sup>
- Local Authority Guide to the Application of Part 2A of the Environmental Protection Act 1990 - Defra/Chartered Institute of Environmental Health, 2007.
- Guidance on the Legal Definition of Contaminated Land - Defra, 2008.

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<sup>7</sup> <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

- Managing and reducing land contamination: guiding principles (GPLC) - Environment Agency, 2016<sup>8</sup>.
- BS 10175:2011+A2:2017 – Investigation of potentially contaminated sites: Code of Practice - British Standards Institute, 2011.
- National Planning Policy Framework - Ministry of Housing, Communities & Local Government, 2019<sup>9</sup>.

Current technical guidance on land contamination is available on the GOV.UK website<sup>10</sup>.

### **3.2 Roles and responsibilities**

Local authorities are the lead regulators for Part 2A, but the Environment Agency also has some responsibilities under the contaminated land regime.

The key responsibilities of the council for Part 2A are:

- To prepare an inspection strategy setting out how the council intends to inspect its area for the purpose of identifying contaminated land, or identify land where there are reasonable grounds for inspection for land contaminated by radioactive substances.
- Determine whether particular areas of land are contaminated land in accordance with statutory guidance, in consultation with the Environment Agency in relation to pollution of controlled waters or land contaminated by radioactive substances, and with Natural England for eco-system effects.
- Decide whether any contaminated land should be designated a 'special site'.

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<sup>8</sup> <https://www.gov.uk/government/publications/managing-and-reducing-land-contamination>

<sup>9</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<sup>10</sup> <https://www.gov.uk/government/collections/land-contamination-technical-guidance>

- Identify and notify owners and occupiers of the land, those who may be liable, and if necessary the Environment Agency.
- Undertake urgent remediation action where there is imminent danger of serious harm.
- Determine who may be liable for remediation and apportion costs.
- Ensure that appropriate remediation takes place either through voluntary action or by serving a remediation notice on those responsible, and take further action if remediation is not achieved.
- Maintain a public register detailing regulatory action under Part 2A.
- Provide a copy of this information to the Environment Agency if required.

The key responsibilities of the Environment Agency for Part 2A are:

- Provide information and formal advice to the council in connection with its inspection, identification and determination process.
- Arrange detailed inspection of 'special sites', and in particular, in the case of land where contamination by radioactive substances is suspected, carry out intrusive investigation.
- Provide site-specific advice regarding remediation.
- Regulate 'special sites'.
- Enforcement of remediation of radioactive contaminated land.

### **3.3 Underlying principles of the contaminated land regime**

#### **3.3.1 Contaminant linkage**

In determining what is significant harm or significant pollution, the council will have regard to the Statutory Guidance, which describes the concept of a significant 'contaminant linkage'. Before determining that any land appears to be contaminated land, the council will identify a significant contaminant linkage comprising each of the following:

- A contaminant source
- A relevant receptor
- A pathway by which either the contaminant is causing significant harm to the receptor or there is a significant possibility of such harm being caused.

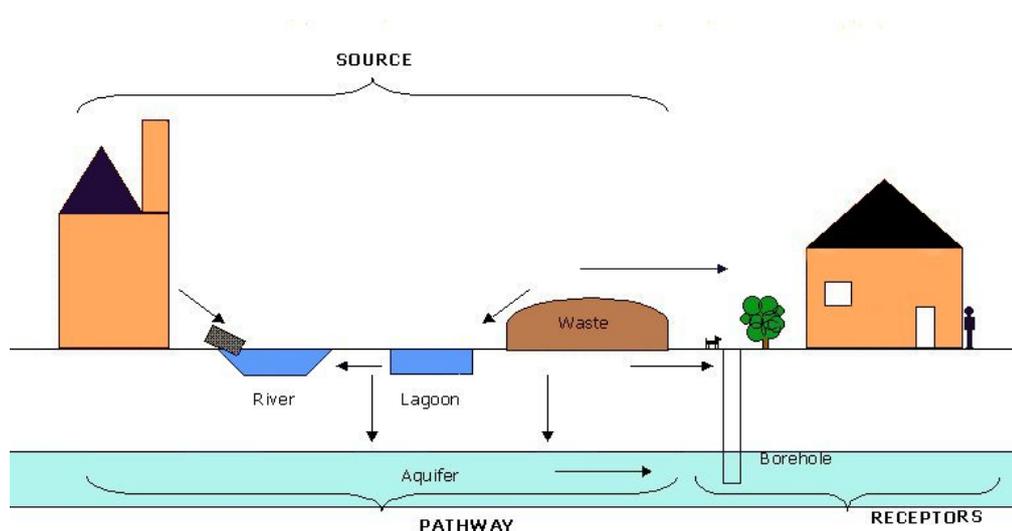
Examples of land uses where sources of contamination are likely to be found include factories, mines, gas works, farms, steel mills, refineries, scrap yards, timber works and landfills. However, there are numerous potential sources of contamination which could result in a contaminant linkage. Further guidance on potential sources of contamination is provided in the Department of Environment (DoE) Industry Profiles<sup>11</sup>.

Relevant receptors for the purposes of Part 2A are defined in the Statutory Guidance, and include humans, controlled waters, certain protected ecological systems, ancient monuments, buildings, crops and home-grown produce, livestock, pets, and game.

Contaminant linkages are brought together to form a 'conceptual site model' (CSM), often represented as a diagram (see Figure 2). The CSM shows the possible relationships between contaminants, pathways and receptors. The CSM is critical in the risk assessment process, and should be refined as more information is gathered about a site.

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<sup>11</sup> <https://www.claire.co.uk/useful-government-legislation-and-guidance-by-country/198-doe-industry-profiles>



**Figure 2 – An example of a conceptual model of contaminant linkages**

When determining whether significant pollution of controlled waters is being, or is likely to be, caused, the council will follow statutory guidance. Prior to determining that any land appears to be contaminated on the basis that significant pollution of controlled waters is being, or is likely to be, caused, the council will have identified a significant contaminant linkage where controlled waters form the receptor.

### 3.3.2 Suitable for use

The government's objectives with respect to contaminated land underlie the 'suitable for use' approach to the assessment and management of risk. This approach comprises three elements:

- Ensuring that, in terms of risk to human health, land is suitable for its current use.
- Ensuring that land is made suitable for any new use as planning permission is given for that new use.
- Limiting requirements for remediation to the work necessary to prevent unacceptable risks to human health or the environment.

The 'current use' is any use which is currently being made or likely to be made of the land, including likely informal use such as children playing on the land, and any use which has planning permission or is otherwise lawful under the planning regime. The 'suitable for use' approach balances the various environmental, social, and economic factors in relation to contaminated land.

### 3.3.3 Risk assessment

Risk assessment involves understanding the risks from contamination, and the associated uncertainties. Under Part 2A, risks should be considered only in relation to the current use of the land, or any likely future use which would not require new planning approval, and this should be demonstrated in the conceptual site model.

When identifying significant contaminant linkages, the council will carry out an appropriate risk assessment, following relevant technical guidance. The basic approach to risk assessment involves identifying the hazards (possible contaminant linkages) and the consequences, and evaluating the risk (estimating the impact and likelihood of those consequences).

This requires a phased approach:

1. **Preliminary risk assessment** (*desk study, site history, conceptual site model, qualitative risk assessment*)
2. **Generic quantitative risk assessment** (*intrusive investigation, compare site data to generic assessment criteria, refine risk assessment*)
3. **Detailed quantitative risk assessment** (*derive site specific assessment criteria for key contaminant linkages, refine risk assessment further to determine remedial measures*).

This process is set out in the government's Land contamination risk management guidance.

### 3.3.4 Generic assessment criteria

The Environment Agency has developed a methodology for estimating long-term risks to people from contaminants in soil, known as the Contaminated Land Exposure Assessment tool (CLEA). This software has been used to derive government-supported generic assessment criteria, such as soil guideline values (SGVs) and category 4 screening levels (C4SLs), which can be compared with concentrations of contaminants in soil. Further details on current C4SLs and ongoing work to develop C4SLs for other contaminants is available on the CL:AIRE website<sup>12</sup>. They can be used to indicate when land is very unlikely to pose a significant possibility of significant harm to human health. Other generic assessment criteria (GAC), derived by competent land contamination practitioners are also widely used in risk assessment. As with any generic assessment tool, the limitations and assumptions must be clearly understood and defined.

### 3.3.5 Background contamination

Many contaminants are naturally occurring and are commonly found in soils, due to soil forming processes and the nature of the underlying geology. Other substances are also widespread in the environment due to low level diffuse pollution and common human activities, such as the historic use of leaded petrol and the spreading of ash in domestic gardens.

The Part 2A regime was introduced to help deal with land which poses unacceptable levels of risk. For the large majority of sites where there are naturally occurring contaminants, or levels of contamination which might be considered 'normal' in a particular area, there is usually no reason to consider this land as contaminated land. The Statutory Guidance makes it clear, that where land is at or close to 'normal' levels of contamination, it should usually

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<sup>12</sup> <https://www.claire.co.uk/projects-and-initiatives/category-4-screening-levels>

not be considered further under Part 2A, unless there is a particular reason to do so. In such cases the council would need to carefully explain the reasons for taking that decision based on robust scientific evidence.

The British Geological Survey has developed technical guidance on behalf of the government, to help clarify what constitutes normal background concentrations (NBC's) for certain contaminants in soil, in accordance with the Statutory Guidance.

### 3.3.6 The 'polluter pays' principle

Once land is determined to be contaminated land, the enforcing authority must establish who is responsible for remediating it. In general, this will follow the 'polluter pays' principle, where the person who caused or knowingly permitted the contamination will be the appropriate person to cover the cost of remediation. However, if it is not possible to find such a person, it will fall to the owner or occupier of the land. More detail on determination and remediation is provided in section 6.

In reality, much of this land will be investigated and remediated voluntarily, either through the planning process, by developers looking to bring a contaminated site back into beneficial use, or by landowners wanting to manage their liabilities, or even as part of the conveyance, to make land more attractive to potential buyers.

## 3.4 Related regulatory and other regimes

### 3.4.1 Planning and building control

The Town and Country planning legislation will continue to be the major resource to influence the clean-up of contaminated sites. Part 2A was intended to work alongside the established role of planning and building control in those cases where the land is suitable for or scheduled for redevelopment. The

strong emphasis on urban regeneration and 'brownfield' re-development means this process will inevitably deal with much of the historical legacy of contaminated land, and will be the primary driver for risk assessment and remediation.

As the local planning authority, the council is responsible for regulating development and land use in the public interest. It has extensive powers to halt or reverse development carried out in the absence of relevant permissions or in contravention of planning conditions. When considering development proposals, the council is obliged to ensure that all material planning considerations, including pollution control and land contamination, are satisfactorily addressed. The council has the power to require the applicant to provide such information as is needed to determine an application for planning permission, which may include environmental assessments and reports on the investigation and remediation of land contamination. Planning officers will take advice from the environmental control team as necessary.

The National Planning Policy Framework (NPPF) sets out that the government's planning system is central to bringing land affected by contamination back into use. The NPPF places the responsibility for ensuring developments are safe and land is suitable for its proposed use, onto developers and landowners. Adequate site investigation by a competent person is required to show that the effects of pollution on health, the natural environment and general amenity have been taken into account. As a minimum, land should not be capable of being determined as contaminated land under Part 2A, after it has been remediated through the planning process.

The Building Regulations 2010 Part C, C1(2) and 'Approved Document C – Site preparation and resistance to contaminants and moisture'<sup>13</sup>, contains specific requirements regarding land contamination. The regulations outline the necessary precautions required to protect new buildings and their future occupants from the effects of contaminants, for example by providing adequate protection from hazardous ground gases, including radon.

### 3.4.2 Environmental Permitting

The Environmental Permitting Regulations (EPR) 2016 requires the operators of industrial sites involving particular processes to obtain a 'permit' from the EA or the Local Authority (depending on the nature and scale of the process). EPR is designed to minimise the impact of potentially polluting commercial activities. Many industrial installations and landfill sites require an environmental permit to operate. Regulation is split between the Environment Agency and local authorities. Permits are issued to operators to control potentially harmful processes on their sites, and therefore reduce their environmental impact. Operators must comply with legally binding conditions set within the permit, for Environment Agency regulated A(1) sites, and local authority regulated A(2) sites, this includes controlling possible emissions to land and controlled waters, as well as to atmosphere. Failure to adhere to the conditions within the permit can lead to enforcement action.

### 3.4.3 Water Resources Act (WRA)

The Environment Agency is the lead regulator for protecting controlled water resources in England at risk of harm as a result of contaminated land. This includes regulating abstractions and discharges to surface water and

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<sup>13</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431943/BR\\_PDF\\_AD\\_C\\_2013.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431943/BR_PDF_AD_C_2013.pdf)

groundwater. The principal legislation for protecting water resources in the UK are the Water Resources Act 1991, the Water Act 2014, and the Environmental Permitting Regulations 2016. The Environment Agency has produced technical guidance on protecting groundwater, which is available on the GOV.UK website<sup>14</sup>. Where significant pollution of controlled waters is being caused by substances in, on, or under the land, Part 2A may apply, and the council will work closely with the Environment Agency in such cases.

#### 3.4.4 The Environmental Damage (Prevention and Remediation) Regulations 2009

The Environmental Damage (Prevention and Remediation) Regulations 2009 (EDR) provide additional powers for the prevention and regulation of land contamination. They only apply to damage caused after the regulations came into force, on 1 March 2009 and they are intended to deal with the most serious cases of environmental damage caused by economic activities and, like Part 2A, they are based on the 'polluter pays' principle. However, the emphasis is on preventing and remedying environmental damage, and not enforcement. Environmental damage as defined by the regulations includes contamination of land that results in a significant risk of adverse effects on human health, as well as damage to species and habitats and damage to water. Local authorities are the enforcing authority for damage to land.

The order in which these regimes should be considered when dealing with land contamination is:

1. The Environmental Damage Regulations (where applicable)
2. Remediation under the planning system (where appropriate)
3. Remediation under Part 2A (where there is no alternative)

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<sup>14</sup> <https://www.gov.uk/government/collections/groundwater-protection>

### 3.4.5 Statutory Nuisance

The Part 2A regime replaces the statutory nuisance provisions of the Environmental Protection Act 1990 for nuisance that consists of, or is caused by 'land in a contaminated state'. That refers to all land where there are substances in, on or under the land which are causing harm or where there is a possibility of harm being caused. Where land is causing offence to human senses, for example odours, the statutory nuisance provisions of the EPA 1990 will still apply.

### 3.4.6 Health and Wellbeing Strategy

This Strategy supports the council's key priorities to improve the health and wellbeing of people in the East Riding of Yorkshire. By working together with public health colleagues and other partners, this Strategy will help deliver the council's wellbeing vision:

**An East Riding where all residents are supported to enjoy their maximum potential for health, wellbeing and participation, throughout their lives.**

The Health and Wellbeing Strategy has been developed by a number of organisations working in partnership with the council to improve the lives of residents in the East Riding through wellbeing, health and care. It reflects the multi-agency approach to managing the wellbeing, health and care system, and recognises the importance of prevention to avoid health and wellbeing problems, for example by changing the environment and the community to reduce or remove risk factors.

## 4.0 IDENTIFICATION AND PRIORITISATION

In order to identify potentially contaminated land, it is first necessary to identify those land uses, past and present, which have the potential to give rise to contamination. It is also necessary to identify relevant receptors, so that contaminant linkages can be assessed with regard to the current use of the land.

When developing its initial inspection strategy, the council built up an extensive database of current and previous land-use information, which is constantly reviewed and updated as new information becomes available. So far, over 32,000 records of potential contaminated land use (i.e. sources of potential contamination) have been identified. Over half of these are infilled areas of land, such as closed landfill sites, and potentially infilled areas such as former pits, ponds and ditches which no longer appear on present day maps. There will be many sites which have multiple records of potentially contaminated land within their boundary, due to various historical uses, and these would usually be investigated as one site.

### 4.1 Information on the possible presence of contaminants

In order to assist in the identification of potentially contaminated land the following data has been collated:

**Table 1 – Sources of information on land use**

<b>Dataset</b>	<b>Source</b>
Maps (historical)	Landmark Information Group/Ordnance Survey
Maps (present day)	Ordnance Survey
Pre-1974 landfill sites	British Geological Survey
Post-1972 landfill sites	Environment Agency
Part A and B Industrial Processes	East Riding of Yorkshire Council

Abattoirs	East Riding of Yorkshire Council
Trades 1855-1982	Trade Directories
Airfields	Yorkshire Air Museum, Elvington
Brownfield Sites	National Land Use database
General works	Historic Maps/O.S/Trade Directorates
Cemeteries	Historic Maps/Ordnance Survey
Sewerage works	Historic Maps/O.S/British Gas
Gas works	Historic Maps/O.S/Trade Directorates
Tanneries	Historic Maps/Trade Directories
Timber yards	Historic Maps/O.S/Trade Directorates
Shipyards	Historic Maps/O.S/Trade Directorates
Scrapyards	Historic Maps/O.S/Trade Directorates
Metal works	Historic Maps/O.S/Trade Directorates
Hospitals	Historic Maps/O.S
Cooperages	Historic Maps/O.S/Trade Directorates
Ministry of Defence Land	Ordnance Survey
Geochemical Surveys	British Geological Survey

#### 4.1.1 Planning records

The council holds information submitted as part of the development control and building control processes. If development has been proposed on areas of land where past use may have resulted in contamination, the council may have requested a site investigation as part of a planning condition. If development has proceeded on such sites, remedial works may have been carried out to improve the site condition.

It is not feasible to carry out a comprehensive search of the many historic planning records held by the council. However, details of recent applications are stored on the council's GIS, and archived planning records would be requested as part of the detailed inspection of individual sites.

## 4.2 Information on receptors

Receptors for the purposes of Part 2A are defined in the Statutory Guidance. In order to assist in the identification of potential receptors the following information sources have been reviewed:

**Table 2 – Sources of information to identify receptors**

<b>Dataset</b>	<b>Source</b>
Maps (present day)	Ordnance Survey
Solid geology	British Geology Survey
Superficial deposits	British Geology Survey
Boreholes and wells	British Geology Survey
Water courses	Institute of Hydrology / Ordnance Survey
Licensed water abstractions	Environment Agency
Aquifer vulnerability	Environment Agency
Sites of Special Scientific Interest	Natural England
Special Protection Areas	Natural England
Special Areas of Conservation	Natural England
Ramsar sites	Natural England
National Nature Reserves	Natural England
Schools	East Riding of Yorkshire Council
Allotments	Parish Councils
Archaeology	Humber Archaeology Partnership
Ancient Monuments	English Heritage
Woodlands	Forestry Commission

Potential pathways by which a receptor may be exposed to a contaminant are assessed from the following site-specific characteristics:

- Geology
- Hydrogeology
- Licensed water abstractions and borehole records
- Current land-use.

### **4.3 Geographical Information System (GIS)**

A GIS is a digital system for the storage, manipulation, analysis and visualisation of spatial data. As part of the strategic inspection process, the council uses a GIS to help identify the presence of sources and receptors of contaminated land, and the likelihood that a pathway may exist between the two, for example due to the site use or the local geology.

At the heart of the GIS is a database that allows spatial data, such as maps, to be linked to attribute data to produce a powerful tool for analysing the environment. Datasets containing both spatial and attribute data can be drawn together and overlaid. For land contamination investigations, different layers can be overlaid on a map to display the potential sources, pathways and receptors that may be present.

### **4.4 Prioritisation**

The information gathered in creating the contaminated land GIS has enabled the council to identify potentially contaminated land within its areas, together with information on possible pathways and receptors. More detailed inspection is then required in order to establish the actual presence, or otherwise, of a contaminant linkage.

In accordance with the Statutory Guidance, the council will take a strategic approach to this task which will be rational, ordered and efficient, be proportionate to the seriousness of any actual or potential risk and will seek to ensure that the most pressing and serious problems are dealt with first. As part of the strategic inspection, it is necessary to first categorise sites into priority groups using a rapid assessment of the potential contaminant linkages.

#### 4.4.1 ConSEPT (Contaminated Site Evaluation Prioritisation Tool)

ConSEPT was developed by BGS as a mechanism for categorising potentially contaminated land, based on previous land use and the likely susceptibility of designated receptors. The methodology is based on a review of techniques available elsewhere, and the relevant statutory requirements. ConSEPT does not designate land as being contaminated land. It is used to prioritise land for further more detailed inspection under Part 2A. It is intended to be used as a screening tool by suitably qualified persons, using their professional judgement and supported by other lines of evidence.

The ConSEPT software integrates with the council's GIS, bringing together existing data sets, which it can then systematically interrogate. The resulting categorisation of sites is very much 'live' and subject to change as knowledge improves and the data sets evolve. The method of assessment used in ConSEPT is designed specifically for Part 2A, and was developed using appropriate existing prioritisation techniques, published by government.

ConSEPT uses potential contaminant linkages as a framework for assessment of potentially contaminated sites as stipulated by Part 2A. The starting point for assessment of contaminant linkages is identification of sites containing potential sources of contamination, based on current and historical land use. The contaminative potential is then determined on the basis of potential contaminants generally associated with those specific land uses (taken from DoE 'industry profiles', and literature searches). Further source evaluation factors, including site area and duration, are also taken into account. These are scored and combined with the contaminant potential score to give a source classification. The pathways on a site are generally deduced by proximity to, or interception with sources, rather than actual knowledge of their existence.

There are three sub-categories of pathway used:

- Direct contact

- Groundwater
- Surface water.

Evaluation factors for each of these three sub-categories are scored and the scores are combined to give pathway sub-category classifications. Finally the source, pathway and receptor sub-category classifications are combined according to seven likely contaminant linkage scenarios. The four relevant receptor groups are:

1. Human health
2. Controlled waters (surface water and groundwater)
3. Ecology
4. Property.

The output from the assessment of each contaminant linkage is given in terms of five output classifications, 'A' through to 'E', with 'A' indicating the highest priority for further investigation and 'E' indicating the lowest. These are then combined to give a single categorisation for each site.

The council has decided to concentrate initially on those sites categorised as 'A(1)' based on a human health receptor. When planning detailed inspections, priority will usually be given to those sites where potentially the largest number of receptors is present. However, this may not necessarily reflect the order that intrusive investigations are carried out, as this will be determined by various factors such as the findings of the preliminary risk assessment, available resources, and specific site constraints.

As with any computer modelling technique, there are occasions where mapping errors or limitations on how the model works will lead to inaccurate prioritisation scores. It is therefore essential that all outputs are reviewed in light of actual knowledge of a site and professional judgement, to ensure the classification of sites reflects the objectives and underlying principles of the Part 2A regime.

#### 4.4.2 Deviating from the inspection plan

It is likely that land may come to the attention of the council that is suspected of causing significant harm, but that was not given a high priority classification or was not previously identified as potentially contaminated. In such cases these sites may take priority.

Sites may also be referred to the council by the Environment Agency for detailed inspection, or the council may receive a complaint regarding potentially contaminated land or pollution of controlled waters from a member of the public, business or community group. These referrals and complaints will be assessed on a case by case basis to determine whether it requires an immediate response, in accordance with the council's existing procedures and this Strategy.

Interested residents may also voluntarily supply information relating to land contamination that is not directly affecting themselves, their families or their property. Any anecdotal evidence provided to the council relating to contaminated land will be recorded, and every effort will be made to resolve complaints quickly and efficiently. However, intrusive investigations will not normally be undertaken without corroborative evidence and no designation of contaminated land will occur without robust scientific reasoning. Inspection and determination will be carried out in accordance with this Strategy and the Statutory Guidance.

#### 4.4.3 Changes in land-use

The council's planning and development management service often deal with planning applications for development on or adjacent to potentially contaminated land. The presence of contamination is a material planning consideration. It is appropriate to address contaminated land issues at the development stage, irrespective of the planned inspection programme.

Where proposals are put forward to redevelop land which has been identified as potentially contaminated, but not yet subjected to any risk assessment or investigation under Part 2A, the environmental control team will act as consultees in the planning process and will ensure that a suitable risk assessment is carried out by the applicant. Any remediation proposals will need to ensure the site cannot be determined as contaminated land at a later stage under Part 2A, based on the proposed future use. Once remediation work is complete, the council will usually require a post-remediation verification report confirming that the agreed works have been carried out. Depending on the site, this information may be required before the application is determined, or as a condition of planning permission.

Pre-application discussions help establish at what stage in the planning process the investigation will need to be carried out, and are encouraged in the NPPF. Investigations and risk assessments should be undertaken by a suitably qualified and competent person, as stipulated by the NPPF. It is recommended that a tiered approach to site investigation and risk assessment is followed, as set out in the government's Land contamination risk management guidance.

The council is a member of the Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG), who have produced technical guidance for developers, landowners and consultants for 'Development on Land Affected by Contamination'. YALPAG guidance documents are available on the council's land pollution web page<sup>15</sup>.

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<sup>15</sup> <https://www.eastriding.gov.uk/environment/pollution/land-pollution/>

## 5.0 DETAILED INSPECTION OF CONTAMINATED LAND

### 5.1 Detailed site inspections

The Part 2A legislation places a duty on local authorities to inspect their areas 'from time to time' for the purposes of identifying contaminated land. The council's present approach will be to address such sites under the planning regime. Therefore the majority of investigations are likely to take place retrospectively, as and when a planning application is submitted for development on land which has been identified as potentially contaminated land, or where any relevant new sites are identified during re-development.

The council will inspect its area in a rational, ordered and efficient manner, when looking to identify contaminated land. This begins with the strategic inspection process to identify the most pressing and serious problems first and to concentrate resources on the areas where contaminated land is most likely to be found.

Once sites have been categorised according to the likely risk of harm, detailed inspection is then required to establish the presence, or otherwise, of a contaminant linkage. The aim of the detailed inspection is to gather site specific information on ground conditions and carry out appropriate risk assessments, to help determine whether there is significant harm or a significant possibility of significant harm occurring, or significant pollution of controlled waters.

Detailed inspections may include the following activities:

- A review of all documentation relevant to the site, including information held by the council, the Environment Agency and other appropriate organisations, as well as the site owners/occupiers, and a thorough review of the site history and activities on site, past and present ('desk study').

- Liaison with statutory consultees and investigation of any past pollution incidents.
- A site visit and walkover survey to assess any visual problems on site and identify the proximity of sources and receptors.
- Undertake a preliminary risk assessment, and develop a conceptual site model to determine what further investigations are necessary.
- Collection of soil, water and ground gas samples as required, in accordance with relevant British Standards and good practice technical procedures.
- Where necessary, conduct a more detailed risk assessment to determine if a significant contaminant linkage is present, following a tiered approach as set out in section 3.3.3.
- Produce a report to summarise the findings of the desk study and preliminary site investigation, recommending what further actions, if any, are necessary.
- Where land is not considered to be contaminated land, a written statement to that effect will be issued to the owners of the land.
- Where land is likely to be determined as contaminated land, a risk summary will be produced, explaining the reasons for this decision.

Intrusive investigation will only be carried out where there is a reasonable possibility that a significant contaminant linkage exists. The council will liaise with the affected persons and relevant stakeholders at the earliest opportunity, and continue to communicate its activities and progress throughout the project. The council will aim to conduct its investigation as quickly, and with as little disruption and stress to affected persons, as is reasonably practical, without compromising the robustness of the assessment.

The council will also seek to minimise property blight issues as far as possible, and will be open to landowners or other interested parties taking their own steps to resolve the status of land which has been identified as potentially

contaminated land. Sufficient information will need to be provided to satisfy the council that a robust assessment has been undertaken.

Where contaminated land is identified, it will be determined in accordance with the Statutory Guidance. If, at any stage of the process, evidence reveals a need for urgent action in order to alleviate an imminent threat to health, controlled waters or protected areas of the environment, then such action will be taken as soon as possible, following statutory procedures. If, during the inspection of a particular site, it becomes clear that the land is unlikely to be contaminated land, the council will bring its inspection and risk assessment to an end, and redirect its efforts to the inspection of other land, in line with this Strategy.

The legislative framework for contaminated land does not always lend itself to the speedy resolution of such problems, for the following reasons:

- The council must follow a strategic approach and prioritise its inspections of contaminated land.
- Proof of a viable contaminant linkage is required before any formal designation of contaminated land is permissible.
- The council must consult with interested parties before designating contaminated land.
- A minimum of 3 months must be allowed between designation and serving a remediation notice.
- The council must make every effort to identify the original polluter of the land.

Although the council will aim to carry out the initial inspection of sites to determine the likelihood of a significant contaminant linkage, there may subsequently be a need to carry out more detailed and specialist investigations and assessments. As this can be costly, it will be subject to appropriate cost-benefit analysis and available resources, taking into consideration the wider objectives of the Part 2A regime.

## 5.2 Powers of entry

For the purposes of identifying contaminated land, the council is granted powers of entry for the purpose of inspection by section 108 of the Environment Act 1995. Any person authorised in writing by the council may:

- Enter any premises at any reasonable time.
- Take any other duly authorised person.
- Take any equipment or materials required for the purpose.
- Make any examination or investigation as may be necessary.
- Take measurements or photographs.
- Take samples of articles, substances, air, water, or soil on or in the vicinity of the premises.
- Carry out experimental borings.
- Install or maintain monitoring or other apparatus.

In the case of residential premises, or where it is proposed to take heavy equipment on to any premises, the council must give 7-days notice of its intention and then may enter the premises with the consent of the occupier.

Where entry to premises is refused or, where the council has reasonable grounds to believe that entry is likely to be refused or that force may be necessary to effect entry, then the council may gain entry under the authority of a warrant issued by a magistrate.

In all cases the council will normally consult with the occupier prior to entry on to the premises, particularly so that any necessary health and safety precautions can be identified.

In an emergency, the council may exercise its powers of entry forthwith. For this purpose a case may be considered an emergency if it appears to the council that:

- There is an immediate risk of serious pollution of the environment or of serious harm to human health, or
- Circumstances exist which are likely to endanger life or health.

Compensation may be payable by the council for any disturbance caused by an inspection using statutory powers of entry.

### **5.3 Review of inspection plan**

The inspection plan will be constantly reviewed in order for any new information to be taken into account, so that the classification of sites can be amended accordingly. There are likely to be specific circumstances which will prompt the review process including the following:

- Proposed changes in the use of land itself or surrounding land.
- Unplanned changes in the use of land, particularly where this increases the risk to human receptors.
- Unplanned events which cannot be addressed through other relevant environmental legislation.
- Reports of localised health effects which appear to relate to a particular area of land.
- Reports from third parties, including the public.
- Changes in knowledge or guidance in relation to particular contaminants, pathways or receptors.

### **5.4 Timescales**

The Strategy does not lend itself to the setting of fixed timescales as the progress of individual sites cannot be accurately predicted. However, considerable progress with identifying and risk assessing sites has already been made since publication of the original document.

Although it is not possible to set a timescale for the determination of contaminated land, the council will determine sites as and when they are identified as contaminated land, and will always give due regard to statutory guidance. There is a need for flexibility in the inspection process to allow for new information coming to light, as well as changes to legislation, statutory guidance and the allocation of resources.

A significant number of potentially contaminated sites identified will, following preliminary investigation, be deemed suitable for their current use, or will already have been satisfactorily dealt with through the planning process, and are therefore unlikely to require detailed inspection under Part 2A.

## 6.0 DETERMINATION AND REMEDIATION OF CONTAMINATED LAND

### 6.1 Determination of contaminated land

Where, as the result of a detailed site inspection, the council is satisfied that one or more significant contaminant linkages exist, it will determine that the land is contaminated land under Part 2A, and will make a written record of that determination.

In deciding whether or not a significant possibility of significant harm to human health or a non-human receptor exists, the council will first decide if there is a possibility of significant harm, within the bounds of the current use of the land. Although it will remain a regulatory decision as to whether the possibility of significant harm is significant, the council will have regard to the Statutory Guidance on this matter.

In determining whether there is significant pollution of controlled waters, or a significant possibility of significant pollution, the council will have strong regard to the Environment Agency's advice.

Further explanation of what constitutes 'significant harm' is provided in the Statutory Guidance.

Having determined that land is contaminated land, the council will, in accordance with section 73B (3) of the Act, give written notice of that determination to the following people:

- The owner of the land
- Any person appearing to the council to be in occupation of the land
- Any person appearing to the council to be an 'appropriate person'
- The Environment Agency.

## **6.2 Designation of special sites**

Certain classes of contaminated land are required to be designated as 'special sites', as set out in Regulation 2 of the Contaminated Land (England) Regulations 2006<sup>16</sup>.

If it appears to the council that land which has been determined as contaminated land is required to be designated a 'special site' it will give written notice of that decision to the relevant persons. Where such a notice is given, the Environment Agency is required to respond within 21 days indicating whether or not it agrees with the council's decision. In cases where the Environment Agency and the council disagree, the matter will be referred to Defra who may agree with or reverse the council's decision with respect to all or part of the land. The council will, in all cases, consult with the Environment Agency prior to giving formal notice.

## **6.3 Categorisation of contaminated land (human health)**

To help the council decide whether or not land is contaminated land on the grounds of a significant possibility of significant harm to human health, it will use the system of categorisation set out in the Statutory Guidance. This describes 4 categories of land, with categories 1 and 2 being land which is capable of being determined as contaminated land, and categories 3 and 4 which is not capable of being determined on such grounds. A similar system can be used to help determine whether or not a significant possibility of significant pollution exists for controlled waters, and is described in detail in the Statutory Guidance. The categories with regard to a human health receptor are defined as follows:

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<sup>16</sup> <https://www.legislation.gov.uk/uksi/2006/1380/contents/made>

- **Category 1:** Land which is clearly contaminated land. These are the worst case sites, where there is a very strong argument that significant harm would occur if no action is taken to stop it, for example, due to similar land or situations having caused such harm before, or because significant harm has already been caused due to exposure to contaminants, and is likely to continue to do so. Any decision will still need to be supported by robust evidence, but the council will seek to avoid any unreasonable delay, cost or stress caused by having to demonstrate this.
- **Category 2:** This would include land where there is little or no direct evidence that similar land, situations or levels of exposure have caused harm before, but the council still feels that there is a strong case for taking action under Part 2A on a precautionary basis, having regard to the Statutory Guidance.
- **Category 3:** This would include land where there may still be risks posed by contaminants, but a strong case described above does not exist, and so the positive legal test cannot be met. In such cases, regulatory intervention would be unjustified. In deciding whether land falls into category 2 or category 3, the council will first consider its risk assessment, including the estimated likelihood and impact of such harm and the timescale over which it might occur. If the council still cannot make a decision whether or not there is a strong case based on this assessment alone, then the Statutory Guidance expects other factors to be taken into account, such as the likely direct and indirect health benefits and impacts of regulatory action, including the stress caused by disruption, and the potential for mobilising contaminants during any remediation work. If the health benefits of remediation do not outweigh the health impacts the land should be placed in category 3. The council will also have to consider whether the benefits would outweigh the financial and economic costs.

- **Category 4:** Land which is clearly not contaminated land. This would include land where no relevant contaminant linkage has been established; or where there are only normal levels of contaminants in soil; or where contaminant levels do not exceed relevant generic assessment criteria, or other relevant technical tools; or land where levels of exposure to contaminants in soil only form a small proportion of what a receptor might be exposed to from other sources.

The government has published category 4 screening levels (C4SLs) for human health, for six priority contaminants. C4SLs are designed to help regulators identify land which is within Category 4 (suitable for use and clearly not contaminated land). They may also be used as a remediation standard for development of brownfield land. An additional twenty C4SLs are to be developed as a collaborative project, through the Soil and Groundwater Technology Association (SAGTA). Contaminant concentrations that fall below minimal risk screening levels, such as the Environment Agency's soil guideline values (SGVs), would also indicate land is well within Category 4.

#### **6.4 Deciding that land is not contaminated land**

As stated in the Statutory Guidance, under Part 2A the starting point should be that land is not contaminated land unless there is reason to consider otherwise. Where it is clear, following an inspection, that land does not meet the legal definition of contaminated land, the council will issue a written statement to the owners of the property and other interested parties, to that effect. The statement will be qualified, for example that the risk assessment is only relevant for the current use of the land. A copy of this statement will be kept on file, along with the reasons for making the decision. The council will not formally publish the information, but will keep a record of it in the event of receiving future enquiries or requests for information.

## **6.5 Risk summaries**

For sites which are likely to be determined following a thorough risk assessment, the council will produce a risk summary, in a simple and easy to understand format, which will form part of the record of determination. This will include:

- A summary of our understanding of the risks, including the identified contaminant linkages, and potential impacts
- A description of the uncertainties behind the risk assessment
- A description of the local or national context of the risk assessment findings, in a way that is understandable to the layperson
- Initial thoughts on possible remediation options and what impact this is likely to have
- Any other factors which may be relevant and support the council's decision making process.

## **6.6 Review of inspection decision**

Occasions may arise where the criteria on which a decision is made to determine or not determine land as contaminated, or to designate or not designate land as a 'special site', may subsequently change.

In such cases the council may choose to revoke or vary its determination. The council will record its reasons for doing so alongside the original determination. The council will also issue a written statement if remediation action has been taken which stops the land being contaminated land, and a copy of this will be kept with the public register (see section 7.1).

The council may decide to postpone determination if the land owner or some other person proposes to take their own action to deal with the problem, and the council is satisfied with the measures proposed. The council may also decide to keep the status of any land under review, in the event that a change

of circumstances in the future may cause the land to be determined as contaminated land.

## **6.7 Determining liability for remediation**

For any land determined as contaminated land, the council will need to establish all owners and occupiers of that land, and who appears to be the appropriate person to bear responsibility for any remediation action necessary. It is the intention of Part 2A that the appropriate person, ideally the 'polluter', pays for the cost of remediation, as a result of voluntary or formal action.

As part of the process of determining that land is contaminated land the council will have identified at least one significant contaminant linkage resulting from the presence of at least one significant contaminant.

In cases where there is a significant contaminant linkage, the process of determining liability will normally consist of identifying an individual or a corporation who has caused or knowingly permitted the contaminant to be present. The succession of different occupiers or industries may have contributed to the contamination of the site, contributing to a significant contaminant linkage or causing multiple significant contaminant linkages. In such cases the council will, in accordance with the Statutory Guidance, approach the apportionment of liabilities as follows:

- The council will make reasonable enquiries in order to identify all of the appropriate persons to pay for any remediation action with respect to each contaminant linkage. These persons constitute the liability group for that linkage.
- For each contaminant linkage there may be identified either a Class A liability group comprising persons who caused or knowingly permitted the contaminant to be present, or a Class B liability group comprising persons who are the current owners or occupiers of the land.

- If the council is unable to identify any Class A or Class B persons in respect of a contaminant linkage it will be treated as an orphan linkage.

The council may exclude from liability any Class A person for one of the following reasons:

- They have been identified as having caused or knowingly permitted the land to be contaminated solely by reason of having carried out certain activities which carry limited responsibility
- They have made certain kinds of payment to another member of the liability group to pay for adequate remediation
- They have disposed of the land to another member of the liability group with information regarding contamination
- They caused or knowingly permitted the presence of a substance which has only led to the creation of a contaminant linkage because of its interaction with another substance which was later introduced by another person
- The land has become contaminated due to the escape of substances from other land and another member of the liability group was responsible for that escape
- The land has become contaminated land due to the subsequent introduction by others of pathways and receptors.

The council may exclude from liability any Class B person for one of the following reasons:

- They occupy the land under license which has no marketable value or which they are not legally able to assign or transfer
- They are liable to pay rent which is equivalent to the rack rent for the land (i.e. the full value of the land and property)

Each remediation action will be characterised as one of the following:

- A single-linkage action which refers solely to a single contaminant linkage
- A common action which refers to more than one contaminant linkage and which would have been a part of the remediation action for every one of those linkages if each had been addressed separately
- A collective action which refers to more than one contaminant linkage but would not have been a part of the remediation action for every one of those linkages if each had been addressed separately.

In the case of a single-linkage action the full cost of remediation will be attributed to the liability group for that contaminant linkage.

In the case of a common remediation action the council will attribute liability for the cost of remediation as follows:

- For a single group the full cost will be attributed
- For two or more Class A liability groups the cost will be attributed in equal shares
- For two or more Class B liability groups, where there is no Class A liability group, the full cost will be attributed to the combined groups as if they were a single group.

In the case of a collective remediation action the council will attribute costs as for a common action except that where costs are divided between several Class A liability groups, instead of being divided equally they will be apportioned as follows:

- The council will estimate the cost of addressing each contaminant linkage. Costs will then be attributed in the proportions which the estimates bear to the aggregate of the estimates.

The council will apportion costs between members of a Class A liability group to reflect the relative responsibility of each member. In doing so the council will follow the approach set out below:

- If the circumstances outlined above for exclusion from a liability group partially apply, the council may assess a person's degree of responsibility as being reduced
- The relative responsibility of a person who caused or knowingly permitted the entry of a contaminant may be assessed against that of a second person who permitted the continued presence of the contaminant
- Where different people were in control of different areas of the land and there is no interrelationship between those areas the council will regard these people as being separately responsible for remediation actions arising from events on those separate areas of land
- Where the quantity of a contaminant present is a major influence on the cost of remediation the council may regard the relative amounts of the contaminant which are attributed to different people as a basis for apportioning responsibility
- The council may apportion responsibility in proportion to the periods of time over which different people were in control of equivalent activities on the land.

The council will apportion costs amongst members of a Class B liability group in proportion to the capital values of their interest in the land.

Orphan linkages may arise for which no responsible Class A or Class B persons can be found. In such cases the council will take the following approach in apportioning remediation costs:

- For remediation action which refers only to an orphan linkage the council will bear the cost.

- For common or collective actions which refer to both an orphan linkage and to one or more contaminant linkages for which there is a Class A liability group all of the cost will be attributed to those groups.
- For common or collective actions which refer to both an orphan linkage and to one or more contaminant linkages for which there is a Class B liability group the council will estimate a hypothetical cost of the action which would be needed to separately remediate each linkage and apportion the costs between itself and the liability group accordingly.

At all times when determining liability and apportioning costs, the council will act fairly and be transparent, and have regard to the Statutory Guidance and the particular circumstances of each individual case. The council will consider the degree of responsibility of the appropriate person for the creation, or continued existence of the contamination.

## **6.8 Liability for adjacent land**

Cases may arise where substances migrate from one area of land to adjacent areas of land causing them to be contaminated land. In such cases the person who originally caused or knowingly permitted the first area of land to be contaminated (the Class A person) will also be liable for the remediation of the adjacent land.

Where no Class A person can be identified, the owners or occupiers of the adjacent areas of land will be separately liable for the remediation of their own land.

Subsequent owners or occupiers of land from which substances have migrated (the Class B persons) will not be liable for the remediation of adjacent land.

In assessing whether adjacent land is contaminated land, the council will only consider the current use of the site. A person will not be liable for the

remediation of adjacent land which would only become contaminated land as the result of a change of use for which planning permission is required.

## **6.9 Remediation**

Once the relevant people have been notified that land has been identified as contaminated land, this begins the process of consultation on what remediation is required. In most cases it is the intention that a scheme of voluntary remediation by the appropriate persons will be agreed with the council (or the Environment Agency in the case of special sites), without the need for formal action. In such cases, the persons responsible for carrying out the remediation will usually be required to prepare a remediation statement.

The broad aims of remediation should be:

- To remove identified significant contaminant linkages, or permanently disrupt them, to reduce risks to an acceptable level
- To take reasonable steps to remedy harm or pollution caused by a significant contaminant linkage.

This can involve a range of treatment, assessment and monitoring actions, and may be carried out in phases. The council will only require actions in a remediation notice which are reasonable with regard to the cost and the seriousness of the pollution or harm. In deciding what is reasonable, the council will have regard to:

- The practicability, effectiveness and durability of remediation
- The health and environmental impacts of the chosen remedial options
- The financial cost which is likely to be involved
- The benefits with regards to the seriousness of the harm or pollution of controlled waters in question.

In some cases the council may carry out remediation itself, for example where urgent action is required due to an imminent danger of serious harm, or if there is no appropriate person to bear responsibility (i.e. an 'orphan linkage').

After reasonable consultation, if appropriate remediation cannot be secured by informal agreement, the council has powers to serve a remediation notice on appropriate persons. The notice will state what measures need to be carried out to remediate the contaminated land, and the timescale for the work to be done. For multiple appropriate persons, the notice shall state what proportion of costs each one is to bear. A remediation notice cannot be served within 3 months of that person being notified that the land in questions is contaminated land. In carrying out these functions the council will also adhere to its own enforcement policy and decision framework.

It is an offence under Part 2A not to comply with a remediation notice without reasonable excuse. If the council decides to carry out the remediation actions itself, it can recover its reasonable costs from the appropriate person. This does not include costs of inspecting the land to determine whether it is contaminated land. Any person who receives a remediation notice has 21 days to appeal against the notice. The grounds for such an appeal are set out in the contaminated land regulations.

Where council-owned land is determined to be contaminated land, the council will not be able to issue a remediation notice, but will instead nominate a responsible person to prepare a remediation statement, detailing what steps it will take, in accordance with the Part 2A legislation and the Statutory Guidance. When considering council-owned land that may be contaminated, the environmental control team will work closely with relevant service areas.

## **6.10 Cost recovery**

There are a number of situations where an appropriate person is exempt from paying the full costs of remediation, for example when 'hardship' would be

caused by meeting these costs. The council may decide in such cases to waive or reduce the recovery of its costs. There is also provision to place a charge on the land, to secure payment at a later date or in instalments.

Some specific considerations may include when the costs of remediation are greater than the value of the remediated land. In such cases the council will consider waiving or reducing its costs recovery from a Class B person. Also, where the appropriate person is a small or medium-sized business, and the costs of remediation would force closure, the council will need to consider the impact that would have on the local economy, and whether this would outweigh the costs of remediation.

Where a Class B person owns and occupies a dwelling on the contaminated land, the council will also consider waiving or reducing its costs recovery if it is satisfied that, at the time the person purchased the dwelling, they did not know, and could not reasonably have been expected to have known that the land was adversely affected by contamination. In such cases the council will consider whether the person took reasonable steps prior to purchasing the property, to establish the potential for contamination to be present. Further details of cost recovery considerations are provided in the Statutory Guidance.

## 7.0 ACCESS TO INFORMATION AND CONFIDENTIALITY

### 7.1 Public registers

Part 2A requires local authorities to maintain a public register containing the following information, where available:

- A copy of any remediation notices
- Details of appeals against remediation notices (including the decision judgements on them)
- Copies of remediation declarations, remediation statements and notifications of claimed remediation.
- Details of any Appeals lodged against charging notices
- Details of any land designated as a 'special site'
- Details of any convictions for offences under section 78M of the Environmental Protection Act 1990
- Site specific guidance issued by the Environment Agency
- Other environmental controls

Full details are contained within Section 57 of the Environment Act 1995<sup>17</sup>.

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<sup>17</sup> <https://www.legislation.gov.uk/ukpga/1995/25/section/57>

All public register documents relating to the determination and remediation of contaminated land in the council's area can be accessed on the council's public register web page<sup>18</sup>.

## **7.2 Information management**

The majority of information held by the council in relation to its duties under Part 2A is in the public domain. Requests for information will be dealt with in accordance with the Environmental Information Regulations 2004 (EIR), which implement the EC Directive on Public Access to Information (2003/4/EC). The information that public bodies should make accessible is subject to certain exceptions. Unlike the Freedom of Information Act, requests do not need to be in writing. The council has 20 working days to respond to a request. The EIR allows the council to charge a reasonable fee for the provision of environmental information.

There are some exceptions where the council does not have to release environmental information and these are set out in the EIR. In cases where an exception is applied the council will provide a written response to the applicant within 20 working days explaining the reasons for the refusal. However, all the exceptions other than those for personal data are subject to the public interest test. This means that the council must explain to the applicant why, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. There is also a general presumption in favour of disclosure.

If the information requested by the applicant is held by another public body, the council will provide the name and contact details of that authority. It will then be the choice of the applicant whether the council transfers the request

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<sup>18</sup> <https://www.eastriding.gov.uk/business/licences-and-registrations/public-registers/other/contaminated-land/>

to the appropriate public body or the applicant makes a fresh request direct to them.

The council provides an environmental enquiry service, where a factual report can be purchased which compiles data held on the contaminated land GIS within a specified search area around a property. Each report is accompanied by a detailed letter explaining the council's prioritisation procedure for any potentially contaminated land found by the search and putting that site into the wider context of the council's inspection strategy. Further details on the environmental enquiry service, including an online request form, are available on the council's website<sup>19</sup>.

### **7.3 Confidentiality**

It is likely that the council will hold information with respect to contaminated land which is personal information to which the provisions of the Data Protection Act 1998 and the General Data Protection Regulations 2018 apply. For example, information will be collated and stored regarding current and past ownership and use of sites. The council will ensure that data is stored and handled in accordance with these legal requirements for data protection.

When dealing with a request for information under the EIR, the council has grounds to refuse a request if it would contravene the data protection requirements, for example if it includes personal data.

The council will not include any information on the public register which it considers to be commercially confidential unless directed to do so by the Secretary of State. If a third party states that information it has provided to the council is commercially confidential, the council will determine its confidentiality upon receipt. If the council determines that information is not

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<sup>19</sup> <https://www.eastriding.gov.uk/environment/pollution/land-pollution/>

commercially confidential it will notify the person concerned in writing. The person concerned may appeal to the Secretary of State within 21 days of being notified and the information will be excluded from the public register until the appeal is determined.

The Secretary of State may give directions to the council regarding information which should not be included in the public register on grounds of national security.

## **8.0 EXCEPTIONS AND AMENDMENTS**

### **8.1 Exceptions**

Notwithstanding the existence of this policy, each case or enforcement measure will be considered on its own individual merits. Where specific exceptional circumstances demand it is necessary and appropriate to do so, the Environmental Control team may depart from its policy. Where this is the case, reasons for the departure will be clearly recorded on file. Officers must first have confirmed the departure from policy and reason for this with the Public Protection Group Manager, relevant Head of Service or Director and a record kept of that discussion and agreed outcome.

### **8.2 Minor Amendments**

Delegated authority has been given to the Director of Communities and Environment to make any future minor amendments, in consultation with the relevant Portfolio Holder.

## USEFUL REFERENCES

Department for Environment, Food and Rural Affairs (2008). *Guidance on the Legal Definition of Contaminated Land*. Defra, London.

Department for Environment, Food and Rural Affairs (2012). *Environmental Protection Act 1990: Part IIA Contaminated Land – Contaminated Land Statutory Guidance*. The Stationery Office, London.

Department for Business, Energy & Industrial Strategy (2018). *Environmental Protection Act 1990: Part IIA Contaminated Land – Radioactive Contaminated Land Statutory Guidance*. The Stationery Office, London.

Environment Agency (2010). *Guiding Principles for Land Contamination (GPLCI, 2, and 3)*. Environment Agency, Bristol.

Environment Agency (2020). *Land contamination risk management*. Environment Agency, Bristol.

Environmental Protection Act 1990, Part IIA: inserted by the Environment Act 1995, Section 57. See Environment Act 1995 for text of Part IIA.

Ministry of Housing, Communities & Local Government (2019). *National Planning Policy Framework*. MHCLG, London.

The Contaminated Land (England) (Amendment) Regulations 2012. Statutory Instrument (SI 2012/263).

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

**GLOSSARY OF TERMS**

<b>Appropriate person:</b>	Defined in section 78A(9) as:  ‘any person who is an appropriate person, determined in accordance with section 78F, to bear responsibility for anything which is to be done by way of remediation in any particular case.’
<b>Class A person:</b>	A person who is an appropriate person by virtue of section 78F(2) (that is because he has caused or knowingly permitted a contaminant to be in, on or under the land).
<b>Class B person:</b>	A person who is an appropriate person by virtue of section 78F(4) or (5) (that is, because he is the owner or occupier of the land in circumstances where no class A person can be found with respect to a particular remediation action).
<b>Contaminant:</b>	A substance which is in, on or under the land and which has the potential to cause significant harm or to cause pollution of controlled waters.
<b>Contaminant linkage:</b>	The relationship between a contaminant, a pathway and a receptor.
<b>Contaminated land:</b>	Section 78A (2) defines contaminated land as:  ‘any land which appears to the local authority in whose area it is situated to be in such a condition, by reason 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

	<p>b) significant pollution of controlled waters is being, or there is a significant possibility of such pollution being caused.'</p> <p>OR with respect to radioactive contamination defined in section 78A(2) (as modified) as;  'any land which appears to the local authority in whose area the land is situated to be in such a condition, by reason of substances in, on or under the land, that;</p> <p>a) harm is being caused; or  b) there is a significant possibility of harm being caused.'</p>
<b>Controlled waters:</b>	Defined in section 78A(9) by reference to Part 3 (section 104) of the Water Resources Act 1991; this includes territorial and coastal waters, inland fresh waters and ground waters.
<b>Enforcing authority:</b>	Defined in section 78A(9) as: 'a) in relation to a 'special site', the Environment Agency; b) in relation to contaminated land other than a 'special site', the local authority in whose area the land is situated'.
<b>Environment agency:</b>	An executive non-departmental public body whose principle aims are to protect and improve the environment, and to promote sustainable development.
<b>Harm:</b>	Defined in section 78A(4) as: 'harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.'

	OR with respect to radioactive contamination defined in section 78A(4) (as modified) as:  'lasting exposure to any person resulting from the after effects of a radiological emergency, past practice or past work activity.'
<b>Hydrogeology:</b>	A subdivision of hydrology specifically relating to the study of waters beneath the earth's surface.
<b>Hydrology:</b>	The science concerned with the occurrence, distribution, movement and properties of all waters on the earth and in its atmosphere.
<b>Inspection using statutory powers of entry:</b>	Any detailed inspection of land carried out through use of powers of entry given to an enforcing authority by section 108 of the Environment Act 1995.
<b>Intrusive investigation:</b>	An investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land or assessment of documentary evidence. Also known as site investigation.
<b>Local authority:</b>	Defined in section 78A(9) as meaning any unitary authority, district council etc.
<b>Orphan linkage:</b>	A significant contaminant linkage for which no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.
<b>Owner:</b>	Defined in section 78A(9) as:  'a person (other than the mortgagee not in possession) who, whether in his own right or as trustee for any other

	person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let.'
<b>Part 2A:</b>	Part 2A of the Environmental Protection Act 1990.
<b>Pathway:</b>	One or more routes or means by, or through, which a receptor: a) is being exposed to, or affected by, a contaminant, or b) could be so exposed or affected.
<b>Public register:</b>	Register maintained by the enforcing authority under section 78R of particulars relating to contaminated land.
<b>Pollution of controlled waters:</b>	Defined in section 78A(9) as: 'The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.'
<b>Prioritisation:</b>	The process of scoring sites based on the potential contaminant sources, pathways and receptors for a site and its surroundings. This creates a prioritised list of sites, which can then be inspected in priority order.
<b>Radionuclide:</b>	Also known as 'radioisotopes', they are atoms with an unstable nucleus which can undergo radioactive decay, emitting gamma rays and/or subatomic particles, which constitutes ionising radiation.
<b>Receptor:</b>	Either: a) a living organism, a group of living organisms, an ecological system or a piece of property which -

	<p>i) is in a category listed in table A in chapter A as a type of receptor, and</p> <p>ii) is being, or could be, harmed, by a contaminant; or</p> <p>b) controlled waters which are being, or could be, polluted by a contaminant; or</p> <p>c) a person subjected to lasting exposure resulting from the after-effects of a radiological emergency, past practice or past work activity.</p>
<p><b>Remediation:</b></p>	<p>Defined in section 78A(7) as:</p> <p>a) the doing of anything for the purpose of assessing the condition of -</p> <p>i) the contaminated land in question;</p> <p>ii) any controlled waters affected by that land; or</p> <p>iii) any land adjoining or adjacent to that land;</p> <p>b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose -</p> <p>i) of preventing or minimising, or remedying or mitigating the effects of any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land; or</p> <p>ii) of restoring the land or waters to their former state; or</p> <p>c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters.'</p> <p>OR</p> <p>with respect to radioactive contamination defined in section 78A(7) (as modified) as:</p>

	<p>'a) the doing of anything for the purpose of assessing the condition of –</p> <p>i) the contaminated land in question; or</p> <p>ii) any land adjoining or adjacent to that land;</p> <p>b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land for the purpose -</p> <p>i) of preventing or minimising, or remedying or mitigating the effects of any harm by reason of which the contaminated land is such land; or</p> <p>ii) of restoring the land to its former state; or</p> <p>c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land.'</p>
<b>Remediation notice:</b>	Defined in section 78E(1) as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things so specified.
<b>Remediation statement:</b>	Defined in section 78H(7). It is a statement prepared and published by the responsible person detailing the remediation actions which are being, have been, or are expected to be, done as well as the periods within which these things are being done.
<b>Risk:</b>	<p>The combination of:</p> <p>a) the probability, or frequency, of occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm); and</p> <p>b) the magnitude (including the seriousness) of the consequences.</p>

<b>Significant harm:</b>	Defined in section 78A(5). It means any harm which is determined to be significant in accordance with chapter A of the statutory guidance (that is, it meets one of the descriptions of types of harm in the second column of table A of that chapter).
<b>Significant possibility of significant harm:</b>	A possibility of significant harm being caused which, by virtue of section 78A(5), is determined to be significant in accordance with chapter A of the statutory guidance.
<b>Site investigation:</b>	An investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land or assessment of documentary evidence. Also known as an intrusive investigation.
<b>Special site:</b>	<p>Defined by section 78A(3) as</p> <p>‘Any contaminated land -</p> <p>a) which has been designated as such a site by virtue of section 78C(7) or 78D(6)...; and</p> <p>b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4)...’</p> <p>The effect of a site being designated as a ‘special site’ is that the Environment Agency, rather than the council, becomes the enforcing authority for the land.</p>
<b>Substance/Source:</b>	<p>Defined in section 78A(9) as:</p> <p>‘Any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.’</p> <p>OR with respect to radioactive contamination defines in section 78A(9) (as modified) as:</p>

	<p>‘Whether in solid or liquid form or in the form of a gas or vapour, any substance which contains radionuclides which have resulted from the after-effects of a radiological emergency or which are or have been processed as part of a past practice or past work activity, but shall not include radon gas or the following radionuclides: Po-218, Pb-214, At-218, Bi-214, Rn-218, Po-214 and Tl-210.’</p>
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**END**