

**Environment and Sustainable  
Communities Overview and Scrutiny  
Committee**



**10 April 2014**

**Contaminated Land Strategy -  
Overview**

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**Report of Terry Collins, Corporate Director of Neighbourhood  
Services**

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**Purpose of Report**

1. To provide the Environment and Sustainable Communities Overview & Scrutiny Committee with an overview on the council's Contaminated Land Inspection Strategy (CLIS), which will be released as a revised version in May 2014.

**Background**

2. In April 2000, a statutory regime for the regulation of contaminated land was implemented, under Part 2A of the Environmental Protection Act 1990. The Act imposes a statutory duty on each local authority to strategically inspect the land within its area for the purpose of identifying land which could be defined as 'contaminated land'.
3. Contaminated Land for the purposes of Part 2A of the Environmental Protection Act 1990, is defined 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
  - b. Significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused.
4. Under the provisions of Part 2A local authorities are also obliged to produce a written CLIS outlining how they intend to fulfil their inspection duties.

**Current Position**

5. The Contaminated Land Inspection Strategy (CLIS) 2014 version is currently under final revision and will shortly be released for consultation, probably during April 2014. It has been amended to incorporate changes arising from the 2012 Statutory Guidance document, prepared by Department for the Environment Food and Rural Affairs (DEFRA). Additionally, it includes changes that arose from the practical experience gained from undertaking more detailed inspection work.

6. The CLIS describes the work approach that will be taken by Durham County Council through to 2018, subject to any other corporate changes or other changes that might be introduced by the government. It enables corporate risk control for this aspect and facilitates achievement of environmental improvement and improves customer service for those enquiring on such matters.
7. The release of the contaminated land new statutory guidance, issued by DEFRA in April 2012, brought several changes to the regime. The main changes contained within the guidance and reflected in the 2014 Strategy are: -
  - a. The introduction of risk categorisation of sites inspected under Part 2A into one of four categories.
  - b. The principle that normal levels of contaminants such as those caused by common human activities as opposed to former industrial uses should not be considered to cause land to qualify as contaminated land, unless there is a particular reason to consider otherwise.
  - c. Changes to the reporting of sites assessed under Part 2A.
8. The purpose of the 2014 Strategy is to set out the proposals for identifying, inspecting and assessing contaminated land within the Durham County Council area between 2014 and 2018, taking into account the statutory guidance and the Council Plan, ensuring an attractive local living environment, and contributing to tackling global environmental challenges ('Altogether Greener'). It does not include information on the enforcement, determining liability and details of remediation of contaminated land. The priority actions are summarised in Table 2 of the Strategy which is appended to this report at Appendix 2.
9. The Strategy includes the following: -
  - a. Introduction
  - b. Principles of Contaminant Linkages and Risk Assessment
  - c. Characteristics of Durham County Council Area
  - d. Implementing the Strategy
  - e. General Communication, Liaison and Consultation
  - f. Information Management
  - g. Dealing with land contamination outside Part 2A of the Environmental Protection Act 1990
10. Part 2A will only be used as a last resort to deal with land contamination and only where no appropriate alternative solution exists. The planning regime remains the primary mechanism for dealing with sites affected by land contamination.
11. As outlined above the CLIS 2014 is currently in draft form and will be subject to consultation, and possible amendment, prior to releasing the final version.

## **Recommendation**

12. Members of the Environment and Sustainable Communities Overview and Scrutiny Committee are requested to note and provide comment on the information provided within the report.

## **Background Papers**

- Defra (April 2012) Environmental Protection Act 1990: Part 2A, Contaminated Land Statutory Guidance, HM Government.
- Durham County Council's November 2011 Contaminated Land Inspection Strategy.
- Durham County Council's 2014 Contaminated Land Inspection Strategy.
- Part 2A Environmental Protection Act 1990.

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## **Appendix 1: Implications**

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**Finance - None**

**Staffing - None**

**Risk - None**

**Equality and Diversity / Public Sector Equality Duty – None**

**Accommodation - None**

**Crime and Disorder – None**

**Human Rights – None**

**Consultation** – The Environment Protection team will consult with internal sections of the Council and external organisations, for example neighbouring local authorities and other interested parties, and any comments received during the consultation will be carefully considered and the Strategy amended accordingly, as appropriate. A list of the bodies consulted can be found in Appendix A of the Strategy.

**Procurement - None**

**Disability Issues – None**

**Legal Implications** – Part 2A of the Environmental Protection Act 1990 imposes a statutory duty on local authorities to strategically inspect land within its area for the purpose of identifying land which could legally be defined as ‘contaminated land’. The Contaminated Land Inspection Strategy 2014 provides a clear set of objectives and actions for inspecting land within the Durham County Council area.

## Appendix 2

**Table 2: The Work Programme for 2014-2018**

	<b>Task Description</b>	<b>Target Date</b>
1.	Review high priority sites (Stage 1 Site Prioritisation)	Ongoing
2.	Continue to collate information on sites of potential land contamination as part of the strategic inspection	Ongoing
3.	Strategically inspect a minimum of 10 high priority potentially contaminated land sites each financial year	Ongoing
4.	Strategically inspect potentially contaminated land sites where sufficient information is available for a decision to be made under Part 2A	Where resources are available
5.	Continue with the Land Quality Inspection Programme undertaking a detailed inspection of 10 high priority potentially contaminated land sites each financial year	Ongoing
6.	Produce written statements / risk summaries for each site following the strategic and detailed inspections	Ongoing
7.	Review high priority sites (Stage 2 Site Prioritisation)	Where resources are available
8.	Undertake strategic and where necessary detailed inspections of sites where information comes to light to deem them as urgent	Where necessary
9.	Review the Contaminated Land Inspection Strategy	End of 2018