

ENVIRONMENTAL HEALTH, REGULATORY SERVICES

CONTAMINATED LAND STRATEGY 2014-2017



FOREWORD

Contaminated land is a part of the legacy of West Dunbartonshire's long industrial past, as a centre for shipbuilding and the manufacturing of products that were sold all over the world.

But now, at the beginning of the 21st Century the Council needs a strategy to deal with these former industrial sites and bring them back into productive use. Contaminated land impinges on all areas of the Council's business. It affects property transactions, marketing property, planning and building control and even maintenance and works contracts across West Dunbartonshire. To be effective the strategy must encompass all of these areas and provide a clear framework within which all departments must operate.

Statutory guidance requires the Council to keep its strategy under periodic review and in this regard the strategy shall be reviewed every three years.

This inspection strategy should ensure that West Dunbartonshire Council is taking a systematic approach to assessing and prioritising its land and in doing so using its resources to their maximum potential.

This strategy also contributes to the Council wider objectives of 'improving the wellbeing of communities and protecting the welfare of vulnerable people, improving economic growth and employability and improving local housing and environmentally sustainable infrastructure'.

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CHAPTER 1

INTRODUCTION AND OVERVIEW



1.1 Background

Industrial change and demographic shift during the 20th century resulted in the need for large-scale re-organisation of our towns and cities. Industries moved out or disappeared altogether leaving large 'Brownfield' gaps in our urban landscape. At the same time, changes in heating methods and the advent of the consumer society also had a significant effect on the type and volume of refuse necessary to landfill. Inevitably, these changes have left behind a legacy of contaminated land, which in some cases is harmful.

1.1.1 Overview of context

In June 1995, new legislation to deal with contaminated land was first published in the form of section 57 of the Environment Act which amended the Environmental Protection Act 1990 by insertion of a new Part IIA. The new statutory provisions came into force in April 2000. Since then, much guidance has been introduced including, in 2006, a revised version of the statutory guidance, Environmental Protection Act 1990: Part 2A Contaminated Land Statutory Guidance Edition 2 (Scottish Executive, May 2006).

This strategy details how West Dunbartonshire Council will undertake its regulatory duty to identify contaminated land under Section 78B of the Environmental Protection Act 1990 and by publishing the strategy is acting in accordance with the Contaminated Land Statutory Guidance.

Under the regime, the Council has two specific duties: firstly, to undertake an assessment of its area for contaminated land through a strategic approach and secondly, where contaminated land posing an unacceptable risk to health or the environment is identified, to ensure the contamination is remediated to reduce that risk to an acceptable level.

1.2 West Dunbartonshire Council Strategic Aims

West Dunbartonshire Council's vision is 'A prosperous West Dunbartonshire recognised as a dynamic area within a successful Scotland'. The Council's strategic plan focusses on addressing the major challenges facing the area these have been identified as:

- Improve economic growth and employability
- Improve life chances for children and young people
- Improve care for and promote independence with older people
- Improve local housing and environmentally sustainable infrastructure
- Improve the wellbeing of communities and protect the welfare of vulnerable people

A performance management framework has been developed by the Council to focus services and resources in tackling these issues. There is a strong emphasis on partnership working both across services internally and in partnership with external agencies. West

Dunbartonshire Council strategic aims are set out in Strategic Plan 2012-17 and the Single Outcome Agreement 2014-17.

Alongside this Contaminated Land Strategy the Council also has the 2012 Sustainable Development Strategy (being reviewed) and the 2012 Climate Change Strategy all of which aim to create sustainable environments which will be key to ensuring the lasting economic viability of West Dunbartonshire.

1.2.1 Specific Aims of this Strategy

Contaminated land is an archetypal example of society's failure in the past to move towards sustainable development. West Dunbartonshire Council is committed to sustainable development through the use and enforcement of the contaminated land regime.

Annex 1 of the statutory guidance, A Statement of Scottish Executive Policy, states that:

“Land which is contaminated hinders the pursuit of sustainable development by:

- ***impeding social progress, depriving local people of a clean and healthy environment;***
- ***threatening wider damage to the environment and to wildlife;***
- ***inhibiting the prudent use of our land and soil resources, particularly by obstructing the recycling of previously developed land and increasing development pressures in greenfield areas; and***
- ***placing a higher burden on individual companies, home and other landowners, and the economy as a whole, in terms of the cost of remediation.”***

Since the introduction of the contaminated land regime in the summer of 2000, the primary aim of the strategy has been to ensure compliance with Part IIA of the Environmental Protection Act 1990, inserted by section 57 of the Environment Act 1995.

Additional aims in implementing this legislation are:

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

1.3 Objectives

The objectives associated with meeting the aims of the strategy are:

- To ensure compliance with and enforcement of statute.
- To ensure that where redevelopment of sites take place the process deals effectively with any land contamination.
- To ensure that procedures are in place for the open provision of information to the public, developers/property surveyors etc.
- To encourage market confidence in the redevelopment of brownfield sites and thus promote the recycling of brownfield sites rather than greenfield sites.
- To address the liability issues associated with the Council's existing land holdings and avoid any new liability associated with land acquisitions.

In order to achieve these we need to undertake the following

- Identify all potentially contaminated sites based on former land use
- Prioritise the investigation of all sites identified
- Undertake detailed investigations of all potentially contaminated sites, including intrusive investigation where necessary
- Make information freely available to all relevant departments and sections within the council, to ensure that contaminated land is considered where appropriate in policy making and in economic development
- Liaise with the Forward Planning and Estates sections of the Council to ensure that derelict sites earmarked for redevelopment are suitable for any proposed future use.
- Liaise with Development Control to ensure that all brownfield sites being redeveloped are suitable for the proposed end use
- Liaise with site owners when potential pollutant linkages are identified
- Seek voluntary remediation of contaminated land
- Formally identify sites as contaminated land where no agreement can be reached with owners/responsible persons regarding remediation.



CHAPTER 2

REGULATORY CONTEXT



2.1 Regulatory context

This document has been produced to comply with the requirements of Part IIA of the Environmental Protection Act 1990. A glossary of terms used in this document can be found in Appendix 1.

Part IIA of the Environmental Protection Act 1990 introduced a requirement that

“Every local authority shall cause its area to be inspected from time to time for the purpose of:

(a) identifying contaminated land; and

(b) enabling the authority to decide whether any such land is land which is required to be designated as a special site.”

The regime adopts a risk based “suitable for use” approach to remediation, and applies the “polluter pays” principle to apportionment of liability.

The “appropriate person” to bear responsibility for the remediation will normally be the person who caused or knowingly permitted the contamination. If such a person cannot be found or no longer exists, liability passes to whoever currently owns or occupies the land. In circumstances where no appropriate person can be found, the local authority is required to bear the cost of remediation.

The primary regulatory role under Part IIA rests with Scottish Local Authorities.

Within West Dunbartonshire the Environmental Health Section of the Department of Corporate Services take the lead role, with assistance from other sections and Departments.

The statutory guidance requires local authorities to take a strategic approach to inspecting their areas and to describe and publish this in a written strategy.

Each local authority is required to:

- Inspect its area to identify contaminated land (see Chapter 8: Inspection Programme)
- Determine whether any particular site is contaminated land
- Act as enforcing authority for all contaminated land which is not designated as a “special site” as defined in the Contaminated Land (Scotland) Regulations 2005 (in which case SEPA is the enforcing authority).

On identifying land as contaminated land, the main tasks of the authority will be to:

- Establish who is responsible for the remediation of land;

- Decide, following consultation, what remediation is required in any case and to ensure that such remediation takes place;
- Determine who should bear liability for meeting the costs of any remediation work carried out;
- Record prescribed information on a public register.

The Scottish Environment Protection Agency (SEPA) has four principal roles in terms of this legislation:

- Provide information to local authorities on request relating to the identification and designation of special sites;
- Issue site specific advice to local authorities;
- Act as the enforcing authority for any land designated as a special site;
- Publish periodic reports on the state of contaminated land.

2.1.1 Definition of Contaminated Land

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

- *Significant harm is being caused or there is a significant possibility of such harm being caused or,*
- *Significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.*

Therefore while land may contain pollutants, unless it presents a significant risk to an identified receptor, action is not required by the local authority.

2.1.2 Principles of Pollutant Linkages

For a site to meet the definition of contaminated land, a pollutant linkage must be established. A pollutant linkage consists of three parts:

- A source of contamination, in on or under the ground;
- A pathway by which the contamination may reach a receptor;
- A receptor of a type specified in the statutory guidance.

A contaminant is a substance which is in, on or under the land and which has the potential to cause harm or to cause pollution of the water environment.

A pathway is one or more routes, or means by, or through, which a receptor:

- i) is being exposed to or affected by, a contaminant, or

ii) could be so exposed or affected

A pathway can only be identified if it is capable of exposing an identified receptor to an identified contaminant.

All the **receptors** which must be considered are listed in table A of the Scottish Executive statutory guidance, Paper SE/2006/44



SOURCE



RECEPTOR

If there is no **pathway** identified to link a **source** of contamination with a **receptor** then land will not be designated as contaminated, i.e. all three elements of the pollutant linkage must be present.

On identifying a pollutant linkage the authority must then establish whether this is to be considered significant as land can only be formally designated contaminated where such a linkage exists, or is likely to exist on the balance of probabilities.

2.1.3 Principles of risk assessment

Local authorities are required to take a risk based approach to the identification of contaminated land, having particular regard to the magnitude or consequences of the different types of significant harm caused or likely to be caused. To this end the following factors must be taken into account:

- The nature and degree of harm;
- The susceptibility of the receptors to which the harm might be caused; and
- The timescale within which the harm might occur.

Site specific risk assessments will therefore be required to determine the need for remediation. In taking a risk based approach, all potentially sensitive receptors have the potential to be protected without wasting resources remediating sites which do not present a significant risk.

2.1.4 Requirements for strategic approach

The statutory guidance requires local authorities to take a strategic approach to inspecting their areas and to describe and publish this in a written strategy. This approach is required 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; and
- ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.

2.2 General Policy of West Dunbartonshire Council

West Dunbartonshire Council recognises that it performs a primary function in protecting the public, the environment, consumers and workers. By carrying out enforcement functions in an equitable, practical and consistent manner, it can help to encourage a thriving national and local economy. In developing a strategic approach to contaminated land, principles of openness, helpfulness, proportionality and consistency can be adhered to.

2.3 Interaction with other Regimes

Consultation with other bodies is essential to ensure the regime for contaminated land is implemented successfully and in a manner which is consistent with other statutory regimes, such as Planning, Pollution Prevention and Control (PPC), Integrated Pollution Prevention and Control (IPPC), Waste Management Licensing, etc.

2.3.1 Planning

The Planning Development Control Section of Housing, Environmental and Economic Development determines planning applications for the development of land. Any land which may contain contaminated materials is referred to environmental health prior to any development starting and with reference to Planning Advice Note 33 (PAN 33) (revised October 2000) these issues are addressed.

The Forward Planning and Regeneration Section produces Local Plans for the entire Council area. Amongst other things, these allocate areas for different land uses such as greenbelt, industrial and residential. When considering potentially contaminated land, the current version of the local plan is referred to.

The single outcome agreement of 2009-2011 states that 85% of housing was developed on brownfield sites.

Where land is to be redeveloped, it will always be more appropriate to deal with contamination issues through the planning regime than through the contaminated land regime. Part IIA can only consider land in terms of its current use, whereas the Planning Regime can ensure that land is suitable for a specific proposed end use. It is worth noting that where land remains undeveloped it may not ever be classed as Part IIA land if no significant pollutant linkage can be identified.

2.3.2 Pollution Prevention and Control (PPC)

The [Pollution Prevention and Control \(Scotland\) Regulations 2012 \(PPC 2012\)](#) came into force on 7 January 2013. The PPC 2012 regulations implement the requirements of the [Industrial Emissions Directive \(IED\)](#) as well as consolidating the Pollution Prevention and Control (Scotland) Regulations 2000 (PPC 2000) which had been amended 25 times. PPC deals with emissions from prescribed processes and is regulated by SEPA in terms of section 27 of the Environmental Protection Act 1990. The PPC regime can only require remediation of contamination where it has resulted from the operation under PPC. Where this legislation is applicable, it will take precedence over any powers of a local authority in terms of Part IIA and the contaminated land regime.

2.3.3 Waste Management Licensing

Waste management licences are the responsibility of SEPA. In any situation where contamination is a result of the activities relating to a waste management licence, Part IIA does not apply. Only when contamination is the result of activities not covered by the licence issued by SEPA could Part IIA apply.

2.3.4 Controlled Activities (Scotland) Regulations (CAR) 2011

These regulations enable SEPA to control activities which may have an impact on the water environment and on the interests of other users of the water environment. It introduces a risk based framework of controls such as general binding rules, registration and licences.

2.3.5 Environmental Liability (Scotland) Regulations 2009

These regulations oblige operators of certain activities to take preventative measures where there is an imminent threat of environmental damage, and to remediate any environmental damage caused by their activities. Under these regulations SEPA is the competent authority for land damage and water damage. Similar to Part IIA the regulations only apply to significant environmental damage or an imminent threat of significant environmental damage.

These regulations acknowledge existing regimes and circumstances and to avoid any confusion Part IIA is more likely to apply when the events or incidents took place before the date on which these Regulations came into force or when the damage arises from activities that ceased before that date.

2.3.6 Food Standards Agency

The Food Standards Agency has a specific remit to protect food safety from “plough to plate”. They therefore have a specific interest in the contaminated land regime to ensure that all agricultural land is free from contamination and fit for purpose. They will therefore be consulted with respect to any agricultural land, which may potentially be contaminated.

2.3.7 Health and Safety

The Health and Safety at Work etc Act 1974 and the Construction (Design and Management) Regulations 1994 aim to protect the public and employees from risks at business and other premises. Where such risks result from land contamination, this authority will liaise with the Health and Safety Executive to ensure the most appropriate legislation is used to deal with the issue.

2.4 Strategy Development

The strategy is published on the Council website and copies placed in all main council offices.

While the Executive Director of Corporate Services has overall responsibility for the production of the inspection strategy, the Environmental Health Section is responsible for ensuring it is updated and relevant.

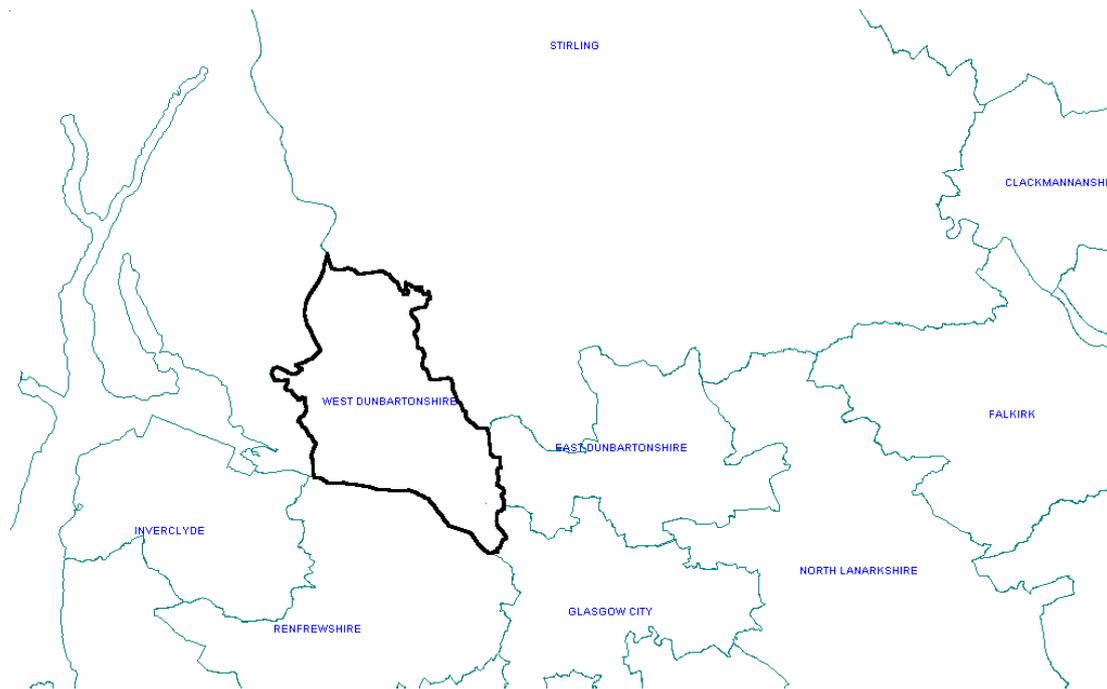


CHAPTER 3

CHARACTERISTICS OF WEST DUNBARTONSHIRE



3.1 General Location And Brief History



West Dunbartonshire Council comprises two main areas:

Clydebank, situated on the north of the River Clyde. Once an industrial manufacturing giant, with output levels that were literally second to none at their peak, Clydebank bore the full brunt of the decline of traditional industries, in particular shipbuilding and associated industries. Potentially contaminative land uses are therefore likely to be concentrated along the north bank of the River Clyde where shipbuilding was concentrated and at other main centres of industry.

Dumbarton and the Vale of Leven. This area extends along the River Leven to Loch Lomond. Industries along the banks of the Leven have been related to engineering and textiles. A loss of traditional industries from this area and the physical isolation of certain locations have led to severe economic decline. Again potentially contaminative land uses have been based around the riverbanks.

In both areas the economic decline has eased off but is still a continuing problem.

3.2 Geography and Population

3.2.1 The Environment

The dominant landscape type is rugged moorland, alongside rolling farmlands and moorland hills and ridges. West Dunbartonshire is widely recognised as containing some of the finest lowland countryside in Scotland. Although West Dunbartonshire is not a particularly agricultural area, a high proportion of the area is classified as open countryside. By contrast, the level of urban development is significantly higher than the

Scottish average. The area has the highest proportion of fresh water in Scotland, much of it very high quality. This includes Loch Lomond. The area also boasts the second highest proportion of mixed leafed woodland in Scotland, and replanting runs at several times the rate of any trees felled. In 2002 Loch Lomond and the Trossachs was designated Scotland's first National Park.

The 2nd smallest Scottish Council in terms of land area, West Dunbartonshire covers 159 sq km. With a population of 90,360 West Dunbartonshire is the 10th smallest local authority area in terms of population. There are 41,558 households across the Local Authority. More than half the population live in Clydebank, giving it a population density level similar to large cities. Other areas are less dense with a greater rural base. Forecasts show a fall in total population over the next 25 years, with a moderate increase in the percentage of older people. .

The Council area is located in the Leven and Clyde valleys and most of the built up areas are located on the lower lying ground.

3.3 Specific Local Features

Information relating to the heritage of West Dunbartonshire has been obtained via the planning section from Scottish Natural Heritage and Historic Scotland. When inspecting the area for contaminated land, this information was taken into account, particularly as potential receptors and added into the prioritisation scoring system.

In addition to this, consultation with SEPA determined what information the Agency could provide with respect to West Dunbartonshire Council which was also taken into account when prioritising sites for inspection.

3.4 Redevelopment History

Several residential developments have been built recently on brownfield sites and the authority is keen to continue this trend of remediating and redeveloping derelict sites. The Development Control section of Housing, Environmental and Economic Development exercises control over most new developments through the planning process and within a planning policy framework. The developer of any site with a past industrial use is required to produce a site investigation report and remediation proposals where appropriate in accordance with the recommendations of Planning Advice Note 33.

3.5 Council owned land

The councils' asset register lists all property and the majority of land owned by the authority. This authority does have substantial land holdings and input will be required by the various departments with land portfolios when considering the requirements of this legislation.

3.6 Key property types

Scheduled ancient monuments, listed buildings, conservation areas are all listed within the GIS. These were considered during the prioritisation of sites within the local authority area.

3.7 Aquifers and the Water Environment

Loch Lomond is a major source of drinking water to over 145 000 people in Greater Glasgow. The southern shores of the loch are within the Council's boundaries. The River Leven and part of the north bank of the River Clyde are also contained within the district. Generally speaking, the water quality as reported by SEPA is very good. However industrial activity over the past century has led to contaminated materials being deposited on the banks of the rivers and advice was sought from SEPA with regard to water quality of the water environment within West Dunbartonshire. This information was included in the prioritisation scoring system.

Groundwater is not a significant source of drinking water within the authority. A recent survey of private water supplies undertaken by the Environmental Health Section has confirmed that most private supplies originate from surface springs and only one property is known to be supplied by a shallow well. However in inspecting the area the effects of perched groundwaters in contaminated soils have also been considered.

3.8 Geology of West Dunbartonshire

3.8.1 Solid Geology

The northern Council area up to the southern banks of Loch Lomond is dominated by Lower Devonian siltstone and sandstone (Old Red Sandstone). Moving southeast from the ORS beds, Upper Devonian conglomerates and sandstones are followed in the succession by Carboniferous sandstones, siltstones, mudstones and limestones. These sedimentary rocks are frequently intruded by igneous dolerite dykes, also of the Carboniferous era. The geology between Dumbarton and Clydebank is dominated by various Carboniferous extrusive rocks, principally basalts of the Clyde Plateau Volcanic Formation. Volcanic plugs of this formation, such as Dumbarton Rock and Sheephill Quarry withstood the southward movement of the last glacial ice sheet. Towards the eastern boundary of West Dunbartonshire Council, marine limestones and mudstones dominate. Tectonically, most of the faults in the Council area are oriented NE-SW.

3.8.2 Drift Geology

The distribution of superficial deposits is variable. The Vale of Leven features glaciofluvial sand and gravel, undifferentiated alluvium and raised marine deposits, as well as made ground, particularly in the considerable area of reclaimed land at the river's estuary. Either side of the Vale, superficial geology is either absent (bedrock is at or near the surface) or dominated by till and undifferentiated drift (boulder clay), with occasional pockets of peat. Much of Dumbarton and Clydebank contains made ground at the junction of the Clyde.

Inland from Clydebank's shore, marine and glaciomarine deposits are encountered, with till and bedrock dominant further inland with infrequent patches of alluvium and peat.

3.8.3 Hydrogeology

SEPA's Groundwater Protection Policy classifies the Old Red Sandstone in the north of the Council area as a "highly permeable" aquifer. These are formations usually with a known or probable presence of significant fracturing. They may be highly productive and able to support large abstractions for public supply and other purposes.

Despite this, SEPA has little evidence of widespread abstraction from this unit in the Council area. This may be due to the limited presence of significant fracturing compared to other areas of Scotland (e.g. Vale of Strathmore). However, this formation may still be used by an unknown number of private abstractors for drinking water supply, farm use, and process water.

SEPA's Groundwater Protection Policy classifies the igneous rocks within the Council area as weakly permeable. These are formations of generally low permeability that do not widely contain groundwater in exploitable quantities. However, some formations can locally yield water supplies in sufficient quantities for private/domestic use.



CHAPTER 4

PROCESS OF PRIORITISATION



4.1 Prioritisation system

The contaminated land legislation was implemented in Scotland in July 2000, under Part IIA of the Environmental Protection Act 1990 (and Section 57 of the Environment Act 1995) and the Contaminated Land (Scotland) Regulations 2000.

The contaminated land regime is an essential element of this government's commitment towards sustainable development. West Dunbartonshire are committed to ensuring decisions made within this generation and in the future will not compromise the ability of future generations to enjoy and utilise the area and environment in the long term.

To enable officers within the Environmental Health section to determine which sites within West Dunbartonshire should be dealt with first, a prioritisation system was devised.

This model allocates a score to all sites taking account of the history of the site, the sensitivity of the receptor and the pathways by which the source contaminants could impact on the receptor. This then enables the identification of the top priority sites for further consideration. It should however be noted that the outputs of the model can and will change depending not only on changes to the inputs (e.g. change of use) but also on how the model is interrogated. It is therefore important to note that the outputs from the model are to assist in the decision making process and should not be seen as a fixed entity.

In addition to this, areas of greatest risk are determined prior to commencement of the inspection programme. Humans are regarded as the most important receptors followed by the water environment, ecological receptors such as SSSIs, and property.

4.2 Site Identification

The prioritisation adheres to the objectives of the statutory guidance and ensures that West Dunbartonshire Council's approach:

- Is rational, timeous and efficient
- Is proportionate to the actual or potential risk.
- Allows areas of most concern to be dealt with first.
- Enables areas of potentially contaminated land to be thoroughly investigated.
- Results in full traceability of the decision making process for each site considered.

Through the use of a geographic information system (GIS), the initial stage of site identification referred to digitised historic maps and historic land use data in order to identify sites where historically heavy industry was present. This then enabled the Environmental Health section to compile a database of potentially contaminated sites which were then subject to prioritisation

Over the years, some gaps have been identified so it is recommended that a review of all the historic maps is undertaken to ensure that all potentially contaminated sites are included in the database and subject to prioritisation.

4.3 Site Inspections

Initially desk-top based prioritisation is carried out. Officers within the Environmental Health Section have carried out walkover site investigations, and will continue to carry out such walkovers to further refine the initial prioritisation. Where deemed necessary, an intrusive site investigation is commissioned to obtain further information relating to any pollutant linkage on a site under consideration.



CHAPTER 5

STRATEGY IMPLEMENTATION: PROGRESS AND TARGETS

5.1 Main Priorities

The main priorities of West Dunbartonshire Council in respect of Part IIA of the Environmental Protection Act 1990 are:

- To identify contaminated land in a strategic manner, as outlined in this document.
- To deal with urgent sites as they come to the attention of the authority.
- To identify all contaminated sites within the local authority area.
- To ensure breakage of pollutant linkages for any contaminated sites identified

5.2 Review of Progress

Considerable progress has been made since the publication of our first contaminated land strategy in 2001. In the early stages the focus was on gathering information on all potentially contaminated sites within the local authority and entering this information into the councils GIS based prioritisation model.

To date 409 potentially contaminated sites (approx 1000 hectares) have been identified within West Dunbartonshire and entered into the council's GIS based prioritisation model. The table below provides a summary of the sites that have been investigated under the Part IIA regime therefore excluding sites dealt with under the planning regime or dealt with on a voluntary basis.

	Total	Proceed to next level	Ongoing	No further action
Walkovers	103 (393ha)	61	8	34
Site Investigation and Assessment	14 (60ha)	4	2	8
Part IIA Designated	2 (18ha)			
Remediation	4 (24ha)			
Remediation Statement	1 (6ha) pending			

5.3 Targets

5.3.1 Site Walkovers

As is shown in the table above, 103 walkovers have been undertaken with over 60 requiring to be considered further. With this in mind and to avoid a backlog of sites for further works it has been agreed that when time permits that sites with a low priority score should be visited to establish whether they can be recorded to require no further action.

5.3.2 Site Investigations

The current economic climate has meant that West Dunbartonshire Council are now unable to deal with contaminated land issues on a proactive basis. However, there may be circumstances in which it is considered appropriate for us to investigate areas of land, for example:

- Introduction of new receptors, for example, where a new protected ecosystem is designated, or there are unauthorised users of a site which would otherwise not have a sensitive receptor
- Identification of localised health effects which appear to relate to a particular area of land
- Receipt of information from statutory bodies or other interested parties, which reveals that land requires to be inspected
- Change in land use

On these occasions and if deemed necessary we will request that funds are allocated in order that we can instruct works to investigate the issues and establish whether a significant pollutant linkage exists or not.

It is important to note that considerable time is required to assess information relating to any site and to instruct and review an intrusive site investigation. Even more time is required if a significant pollutant linkage is established and the site is formally identified as contaminated land. West Dunbartonshire Council have however signed up to the new Scotland Excel framework which provides a common approach to the procurement of engineering and technical consultancy services which should therefore simplify the procurement of consultants for intrusive works.

5.3.3 Remediation of sites

West Dunbartonshire Council continues to actively seek remediation of sites via the planning regime when development of a potentially contaminated site is proposed. The Council is also committed to securing voluntary remediation of sites wherever possible and so undertakes full liaison with site owners during all stages of investigation. Given the high costs of remediation, it is not anticipated that the Council will undertake any site remediation unless additional funding is made available.



CHAPTER 6

PROCEDURES



6.1 Internal Management Arrangements

Procedures are required to describe how contaminated land issues have been managed and will continue to be managed within the authority.

Within the Directorate of Corporate Services the Environmental Health Section has responsibility for compiling and updating West Dunbartonshire Council's strategy with respect to contaminated land and for implementing the requirements of Part IIA. The Section Head, Environmental Health, facilitates the smooth running of the regime through allocation of resources and liaison with elected members and other Heads of Service.

Inspection and identification of contaminated land is the responsibility of the Public Health and Pollution Team within the Environmental Health Section, under the supervision of the Team Leader.

6.2 Local Authority Interests in Land

As discussed, the authority has significant land holdings. Two sites within West Dunbartonshire have been designated as contaminated land under Part IIA. The first site was designated in July 2003, of which the central section is also designated as a special site. WDC and SEPA are currently working together to remediate this with the site owner. The second site was designated in July 2004, which was land under the ownership of WDC. This site has been redeveloped with remediation measures in place. At the moment there are no future plans for site designation, however WDC continually review their contaminated land prioritisation list.

West Dunbartonshire Council strives to be an exemplary organisation and is committed to dealing promptly with any land for which it has a legal obligation in terms of this legislation.

Where this authority is the appropriate person, notice will be given to the appropriate Director, to take any action deemed necessary and where considered appropriate to oversee the remediation of the land in question.

6.3 Decision Making

6.3.1 Process framework for Part IIA decision making

Contaminated Land Report 11, Model Procedures for the Management of Land Contamination (Defra 2004) presents a technical approach designed to be applicable to a range of regulatory and non-regulatory contexts, including regulatory intervention under Part IIA of the Environmental Protection Act 1990. This document is intended to improve procedural understanding of a risk based approach to land contamination and provide a consistent approach to decision making.

The document has been used as the basis for devising a decision tree for potential Part IIA sites (Appendix 3). This has been devised to formalise outputs from the decision making

process. It requires a written report to be prepared for each stage in the decision making process, ensuring a record is kept of decisions made and how decisions were reached.

While the technical detail and criteria will depend on the circumstances of the site being considered, this system puts a clear focus on the decision making process. The conceptual model is referred to throughout the decision making process, and is constantly refined as new information becomes available.

This system will allow for ready identification of uncertainties, which can be addressed as part of the process. As the uncertainties are reduced, the conceptual model is refined and the amendments recorded.

The key output from this is a decision record for each stage in the process. This will enable the authority to demonstrate that a robust process has been followed in arriving at a decision on any potentially contaminated site.

6.3.2 Decision to Identify Part IIA contaminated land

When a significant pollutant linkage has been established and there is no indication that the owners or appropriate persons intend to remediate the site, a report will be prepared for the Corporate Services Committee. This report will state the reasons by which the site has been identified as contaminated and recommend that members ratify the decision to declare the site as Part IIA contaminated land.



CHAPTER 7

GENERAL LIAISON AND COMMUNICATION STRATEGIES



7.1 Consultation

The first point of contact within West Dunbartonshire Council for contaminated land is the Public Health and Pollution Team of the Environmental Health Section. Contact details for the team can be found below:

West Dunbartonshire Council
Rosebery Place
Clydebank
G81 1TG
Tel: 01389 738290

e-mail: environmental.health@west-dunbarton.gov.uk

<http://www.west-dunbarton.gov.uk/business/environmental-health/pollution/contaminated-land/>

Effective communication links are also required between this authority and other statutory bodies, i.e. neighbouring authorities, Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), Historic Scotland and the Scottish Government. In accordance with the statutory guidance all these parties and more were consulted during the development of our original strategy and have been informed of our revised strategy with copies of this edition being made available on request. A list of all informed parties is provided in Appendix 4.

7.2 Liaison with owners/occupiers and other interested parties

A copy of the strategy has been posted on the council's web site with paper copies available at main council offices. In addition, any organisation requesting to view this authority's strategy will be directed to the Council website.

A Guidance for Developers booklet has also been produced in conjunction with neighbouring councils that highlights our expectations for a contaminated land report and demonstrates a consistent approach across the authorities. This booklet is available for download from the departments web page. In addition to this West Dunbartonshire Council make use of the checklists in this booklet to highlight areas within a report that are considered to be substandard. Failure to meet all the initial checks will result in the report being returned prior to it being subject to detailed review.

Letters are issued to all owners/occupiers of sites the Council is seeking to gain information about or access to for the purposes of a site inspection or investigation. Letters will state the reasons the Council is seeking information on/access to/permission to intrusively investigate the site, and outline in non-specialist terms why the land is potentially contaminated.

Throughout the duration of a project, regular contact with the site owner/occupier and any other interested party will be made by way of telephone/email/letter to ensure that they are kept well informed of progress. Where the works involve a number of different parties it may be that either a newsletter or public meeting would be considered more appropriate.



CHAPTER 8

INSPECTION PROGRAMME



8.1 Desk top survey and Initial Prioritisation

The desktop survey and initial prioritisation entailed compiling all the information available to the authority on land within the council boundaries. All sites were then allocated a score which took account of the sensitivity of the receptor, the significance of the source and the pathways by which the source contaminants could impact on the receptor.

The overall site score is used to subdivide the sites into four priority categories, with the top priority sites featuring high scores.

8.2 Walkovers

Environmental Health Officers, an Environmental Health Assistant and a Contaminated Land Officer engage in initial walkover site surveys. During investigation of an area of land, this authority liaises with all appropriate persons and public bodies. Forms for liaison with respect to particular areas of land were produced in consultation with neighbouring local authorities and these are used. Furthermore, letters are issued to landowners when access to privately owned land is required for the purposes of a walkover.

8.3 Intrusive Investigation

West Dunbartonshire Council have adopted a new national framework for the provision of engineering and technical consultancy services. If intrusive site investigations are deemed necessary then a consultant will be selected by way of a mini competition between consultants included in Lot 6 of the Scotland Excel Framework. All returns will then be assessed against a rigorous tender evaluation procedure where all parties are expected to demonstrate a thorough understanding of British Standard 10175, Investigation of potentially contaminated sites, Code of practice; Part IIA and the Scottish Government statutory guidance.

Such investigations are required where a pollutant linkage is suspected, but further evidence is required to prove that one exists, in the absence of sufficient information in Environmental Health's records to make a judgement.

Decisions of this nature are confirmed at a senior management level as there are significant financial implications to the council.

8.4 Determination of contaminated land

If a significant pollutant linkage on any piece of land is identified, a determination is made by the authority that such land is contaminated. For each piece of land determined as being contaminated land, the local authority needs to establish:

- The owner of the land
- Any persons in occupation of all or part of the land

- Any persons who appear to be an appropriate person to bear responsibility for any remediation action which might be necessary.

These matters are reconsidered as further information becomes available. This may entail serving identification notices on a group of appropriate persons. In any case, this authority acts on the basis of the best available information at any particular time.

Where the local authority is of the opinion that land is contaminated, a written record of determination is made.

A copy of the record of identification is sent to the owner, occupier, any other appropriate person and SEPA for each site.

When a pollutant linkage has been established and there is no indication that the owners or appropriate persons intend to remediate the site, a report will be prepared for the Corporate Services Committee. This report will state the reasons by which the site has been identified as contaminated and recommend that the committee ratify the decision to declare the site as Part IIA contaminated land.

Following designation, West Dunbartonshire Council seeks to encourage voluntary remediation. A three month consultation period follows the issue of the record. This period is used to:

- confirm that the land should be determined as contaminated
- determine what should be achieved by remediation
- determine what remediation actions are required to achieve that remediation
- identify opportunities for agreed remediation
- resolve any disagreements relating to liability or any other issues.

Where voluntary remediation cannot be agreed, a remediation notice is served in the form detailed in the Contaminated Land (Scotland) Regulations 2005. Full details of grounds for appeal are attached to any notice served.

8.5 Health and Safety Procedures

All Council employees involved in site inspections need to comply with the requirements of West Dunbartonshire Council's health and safety policies and procedures. If detailed inspections are required or employees are required to be present during intrusive site investigations then a site specific risk assessment is carried out.

Where contractors are engaged by the authority to carry out intrusive site investigations, they are required to produce a working statement, which includes details of their health and safety arrangements and procedures.

8.6 Liaison with Local Community

Where an intrusive site investigation is required at a site that is particularly sensitive in terms of public perception, an information sheet will be prepared giving details of the purpose and extent of the works. This is made available to all interested parties (e.g. local residents, local businesses, community groups, landowners, politicians). If the investigation reveals an imminent risk of harm requiring immediate action, all owners and occupiers of neighbouring property are informed and if necessary a public meeting will be called.

8.7 Urgent Sites

Where it appears to the authority following investigation, or as a result of information received, that there is an imminent danger of serious harm or serious pollution of the water environment being caused as a result of a significant pollutant linkage, this authority will ensure that urgent remediation is carried out. In such an instance the three month interval between determination of land as contaminated and the serving of a remediation notice will not apply.



CHAPTER 9

REVIEW MECHANISMS



9.1 Requirement to review

This strategy has been prepared to fulfil the requirement to have a strategic approach to the identification of contaminated land. However as work progresses it will be necessary from time to time to review the strategy in order to ensure that the approach being taken is still appropriate to circumstances within the authority. There is a statutory requirement for all local authorities to review their inspection strategies from time to time.

This authority will produce an annual update and unless circumstances dictate otherwise it is proposed that the strategy will be reviewed every three years.

9.2 Triggers for review

The following situations may require a review to be implemented outwith this timeframe:

- Following significant changes in legislation, as was the case with the amendments to Part IIA in mid to late 2005
- With the establishment of significant case law
- The introduction of new guideline values or modelling techniques.

9.3 Action taken following review

Where a review has been carried out, the findings of the review will be reported to Committee. If necessary the strategy will be revised following review.



CHAPTER 10

INFORMATION MANAGEMENT



10.1 General Principles

All information relating to Contaminated Land is now stored on the Geographic Information System (GIS). The GIS system was utilised to identify potentially contaminated sites within the West Dunbartonshire Area. To date approximately 400 sites have been identified from studying historic maps and looking at historic land use for areas within West Dunbartonshire.

Once the sites were identified the next step was to prioritise the sites. A Methodology for Prioritisation was created using the Section's own scoring system which is unique to the West Dunbartonshire Area. The Site Assessment is carried out using an Access database.

10.2 Confidentiality/Freedom of Information

Advice was sought from the Legal Services section of the council in relation to this matter.

The Freedom of Information (Scotland) Act 2002 provides a right of access by members of the public to all types of "recorded" information held by Scottish public authorities. From 1 January 2005 any person who makes a request for information must be provided with it, unless that information is subject to one of the exemptions or limitations from duty to disclose information contained in the Act e.g. commercially sensitive information.

In order to make a request, the request for information must be in writing (or in another form with some permanency capable of being used for subsequent reference), state the applicant's name and correspondence address and describe the information requested.

The Local Authority must provide that information within 20 working days, provided it is not exempt information under the Act.

The Freedom of Information (Scotland) Act also introduces the Environmental Information (Scotland) Regulations (EIRS).

The Regulations allow individuals to make requests to a Local Authority for environmental information. All communications to a Local Authority for environmental information, *even if these are not in writing*, can potentially be a request for information under the EIRs.

10.3 Record Keeping

An inevitable outcome of any Part IIA investigation is that a large volume of paperwork will be generated. This will take the form of site investigation reports, correspondence, records of meetings and telephone conversations, etc. In order to keep track of all documentation a case file log will be created for each site being considered in terms of Part IIA.

In addition to this and to help to inform the ongoing prioritisation process it is important to keep a record of all changes that could affect the priority rating of a site. Over the

years, a number of other excel based databases and GIS layers have been created that require to be updated on a regular basis, a summary of which are detailed below:

10.3.1 Contaminated Land Files

All contaminated land reports (Part IIA, planning, voluntary) submitted to the Environmental Health department should be recorded on the department's GIS system. The site should be digitised and details recorded (Site name, address, date of report, information held etc). For quick reference, the project is also allocated a unique reference number. On receiving a new report the Contaminated Land Officer will record basic site information in order for it to be entered onto the system.

10.3.2 Planning Database

Environmental Health is a key consultee in the Development Management process and can therefore request that conditions are attached to any application on a site that we have identified as being potentially contaminated. Throughout the year we can provide comment on a large number of applications and to ensure that we remain aware of the status of these applications the information is recorded in an excel spreadsheet and site information is recorded on the department's GIS system. The Contaminated Land Officer is responsible for updating the databases and notifying the Team Leader of any issues that may be of concern throughout the planning process.

10.3.3 Information Requests - External

It is common practice for external parties to request information from Environmental Health on specific sites within the authority. The Contaminated Land Officer is responsible for keeping a record of all these requests and recording them on the department's GIS system.

10.3.4 Information Requests - Internal

Environmental Health also receive requests for information on other sites from other council departments. As with external requests, the Contaminated Land Officer is also responsible for keeping a record of all these requests and recording them on the department's GIS system.

10.4 Public Register

A public register for contaminated land is kept within the Environmental Health office. This register is available to the public as a paper copy. It should be noted that the requirement is only for a public register of sites which have been identified as contaminated.

APPENDIX 1 - GLOSSARY OF TERMS

Appropriate person: defined in section 78A(9) as:

“any person who is an appropriate person, determined in accordance with section 78F ..., to bear responsibility for any thing which is to be done by way of remediation in any particular case.”

Caused or knowingly permitted: test for establishing responsibility for remediation, under section 78F(2).

Water Environment: defined in section 78A(9) by reference to section 3 of the Water Environment and Water Services (Scotland) Act 2003; this embraces territorial and coastal waters, inland fresh waters and ground waters.

Owner: defined in section 78A(9), in relation to any land in Scotland, as:

“a person, (other than a creditor in a heritable security not in possession of the security subjects) for the time being entitled to receive, or who would, if the land were let, be entitled to receive, the rents of the land in connection with which the word is used and includes a trustee, factor, guardian or curator and in the case of public or municipal land includes the persons to whom the management of the land is entrusted”

Pathway: 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.

Pollutant linkage: the relationship between a contaminant, a pathway and a receptor.

Possibility of significant harm: a measure of the probability, or frequency, of the occurrence of circumstances which would lead to significant harm being caused.

Register: the public register maintained by the enforcing authority under section 78R of particulars relating to contaminated land.

Relevant information: information relating to the assessment of whether there is a significant possibility of significant harm being caused, which is:

(a) scientifically-based;

(b) authoritative;

- (c) relevant to the assessment of risks arising from the presence of contaminants in soil;
and
- (d) appropriate to the determination of whether any land is contaminated land for the purposes of Part IIA, in that the use of the information is consistent with providing a level of protection of risk in line with the qualitative criteria set out in Tables A and B of Chapter A of the Scottish Executive Statutory Guidance.

Remediation: defined in section 78A(7) as

“(a) the doing of anything for the purpose of assessing the condition of –

“(i) the contaminated land in question;

“(ii) the water environment affected by that land; or

“(iii) any land adjoining or adjacent to that land;

“(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 the water environment for the purpose –

“(i) of preventing or minimising, or remedying or mitigating the effects of any significant harm, or any significant pollution of the water environment, by reason of which the contaminated land is such land; or

“(ii) of restoring the land or water environment to its former state; or

“(c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or the water environment.”

Remediation declaration: defined in section 78H(6). It is a document prepared and published by the enforcing authority recording remediation actions which it would have specified in a remediation notice, but which it is precluded from specifying by virtue of sections 78E(4) or (5), the reasons why it would have specified those actions and the grounds on which it is satisfied that it is precluded from specifying them in a notice.

Remediation notice: 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.

Remediation statement: 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.

Significant harm: defined in section 78A(5). It means any harm which is determined to be significant in accordance with the statutory guidance in Chapter A (that is, it meets one of the descriptions of types of harm in the second column of Table A of that Chapter).

Significant pollutant: a pollutant which forms part of a significant pollutant linkage.

Significant pollutant linkage: a pollutant linkage which forms the basis for a determination that a piece of land is contaminated land.

Significant possibility of significant harm: a possibility of significant harm being caused which, by virtue of section 78A(5), is determined to be significant in accordance with the statutory guidance in table B.

Special site: defined by section 78A(3) as:

“any contaminated land –

“(a) which has been designated as such a site by virtue of section 78C(7) or 78D(6); and

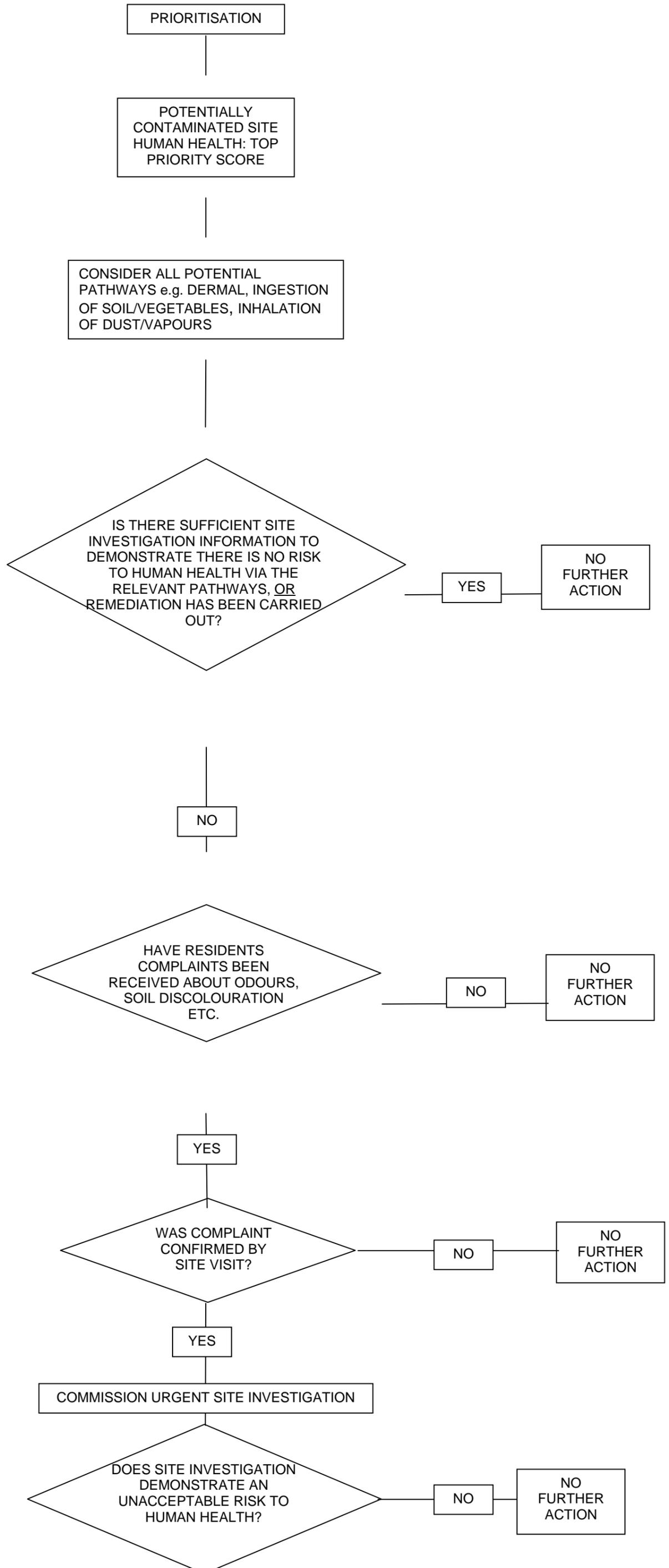
“(b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4)”.

The effect of the designation of any contaminated land as a special site is that the Scottish Environment Protection Agency (SEPA), rather than the local authority, becomes the enforcing authority for the land.

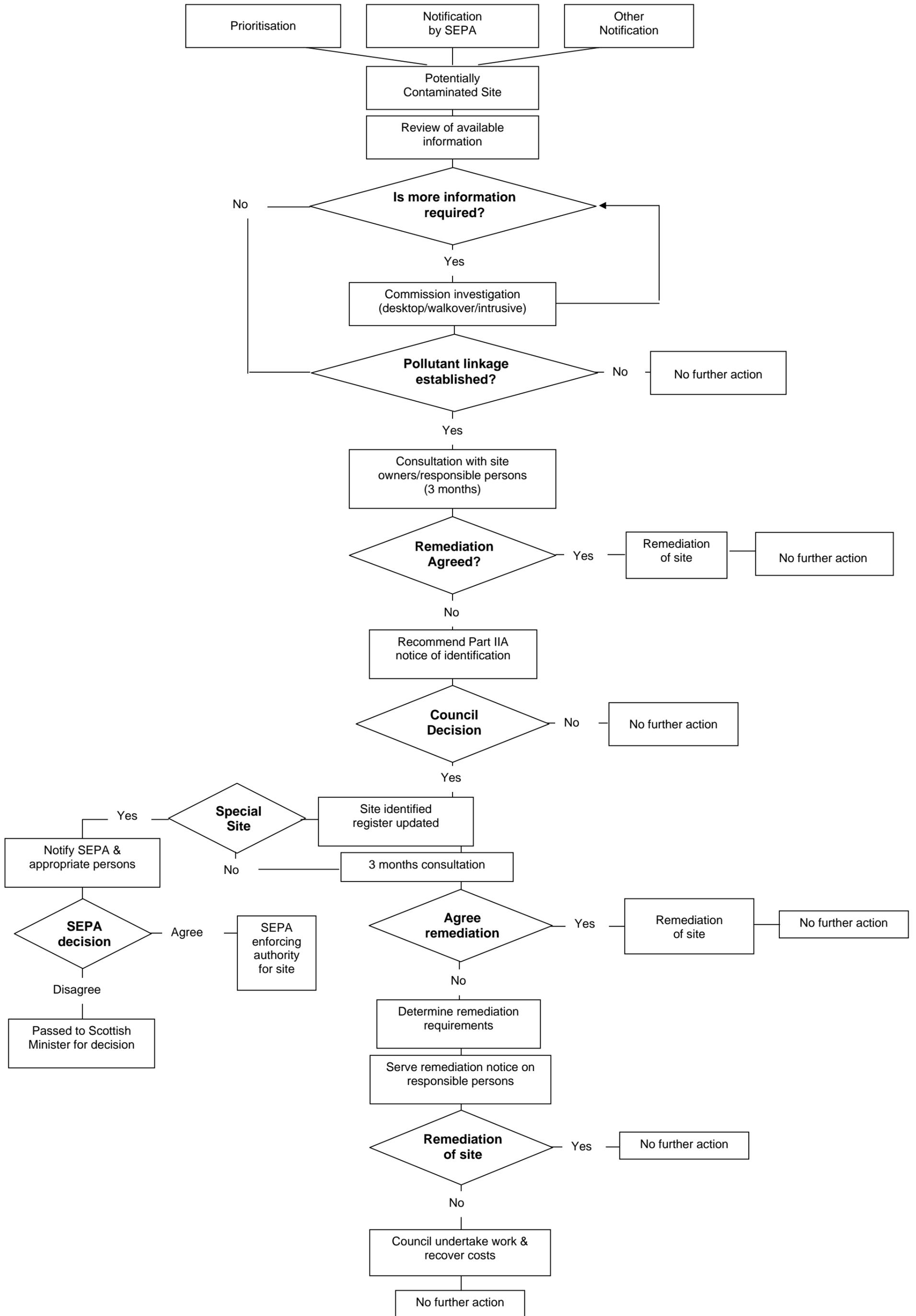
Substance: defined in section 78A(9) as:

“any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour.

APPENDIX 2 - SITE INVESTIGATION PROCESS, HUMAN HEALTH



APPENDIX 3 - DECISION TREE FOR POTENTIAL PART IIA SITES



APPENDIX 4 - LIST OF STATUTORY BODIES

Argyll and Bute Council, Planning and Regulatory Services, Kilmory, Lochgilphead PA31 8RT

East Dunbartonshire Council, Southbank House, Strathkelvin Way, Kirkintilloch

Environmental Protection Unit, Scottish Executive, Victoria Quay, Edinburgh EH6 6QQ

Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ

Friends of the Earth, Scotland, 72 Newhaven Road, Edinburgh EH6 5QG

Glasgow City Council, Geotechnical & Land Remediation Group, DRS, 229 George Street, Glasgow

Greater Glasgow & Clyde Health Board, Dalian House, 350 St Vincent Street, Glasgow G3 8YZ

Health & Safety Executive, 375 West George Street, Glasgow G2 4LW

Historic Scotland, Longmore House, Salisbury Place, Edinburgh EH9 1SH

Loch Lomond and Trossachs National Park, The Old Station, Balloch Road, Balloch G83 8SS

Renfrewshire Council, Environmental Services, South Building, Cotton Street, Paisley, PA1 1UG

Scottish Enterprise, Dunbartonshire, Spectrum House, Clydebank Business Park, Clydebank G81 2DR

Scottish Environment Protection Agency, Angus Smith Building, Maxim 6, Parklands Avenue, Eurocentral, Lanarkshire, ML1 4WQ

Scottish Natural Heritage, Caspian House, Clydebank Business Park, Clydebank G81 2NR

Stirling Council, Environmental Health Section, Municipal Buildings, 8/10 Corn Exchange Road, Stirling FK8 2HU

Scottish Water, Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, KY11 8GG