

APPENDIX 2: Additional Information

1.0 STATUS QUO

The current state of play regarding the implementation of the Contaminated land Strategy and investigation of potentially contaminated land in the Borough is as follows

- We have identified approximately 1600 sites that require investigation
- Approximately 200 of the 1600 sites are considered to be high priority after undertaking risk assessments. The exact number of these high priority sites is likely to fluctuate slightly once the site walkover surveys are completed.
- We are currently in the process of implementing the soil investigation of selected allotment sites in the Borough as part of the first phase of soil sampling. We have provisionally scheduled a consultant to conduct the works in mid-September for a week.
- We are in the process of organising public meetings for interested parties to communicate our approach to site investigation and will organise similar forums/meetings to provide feedback as necessary.

1.1 Sites identified under the Planning Regime

Some sites identified as potentially contaminated will be earmarked for development and will not require the Local Authority to conduct intrusive sampling. These sites will not be earmarked for further investigation.

1.2 Unidentified sites

There are inevitably sites which may be considered high priority but are currently unidentified. In addition, changes in site use may result in increased exposure to contaminants and therefore result in the re-prioritisation of sites from low to a higher risk category. For this reason the number of high risk sites prioritised may increase. We will endeavour to identify these sites and will re-prioritise site investigations to accommodate this.

1.3 Council owned sites

We will prioritise and deal with all sites (including those currently or formerly owned by the Council based on risk to human health. Of the approximate 200 high priority sites 79 are owned or part owned by the Council. Sites identified include schools, residential premises with gardens, public open spaces and allotment sites. Currently we estimate 1384 dwellings are in the vicinity of sites identified.

1.4 What is our current level of resources?

The table below illustrates the current level of resource to deal with contaminated land issues.

Options	Staff resource	Legal costs	Additional Site investigation costs	Completion Date for investigating high priority sites	Estimated No. of sites investigated per annum
1 –current project status	1FTE	0.5K	18K	2030	7

Current resources will enable us to conduct detailed assessment of 7 high priority sites per annum and take 30 years to complete investigating high priority sites. This timescale may be

extended where complex sites are encountered as they can take longer to remediate and may divert resources from the remediation of other sites.

The Officer also undertakes responses to planning consultation in order to ensure that land that may be contaminated is remediated and oversees the remediation as well as well as evaluates contaminated land reports.

1.5 What are the consequences of dealing with a sensitive residential site which may require remediation?

The following impacts are likely:

- The current service has no provision to resource the staff time for public meetings, answering queries from residents and publicity required for effective risk communication, nor for any legal issues that will inevitably arise.
- Whilst dealing with a site that requires remediation, it is highly likely that other work will come to a halt e.g. planning applications, evaluation of contaminated land reports, overseeing remediation works under planning, discharging planning conditions once remediation work has been undertaken under the planning regime as well as other proactive work undertaken under the Town & Country planning Act. Work undertaken under Part IIA will also suffer.
- This will impact on our Best Value performance. In April 2005, the Audit Commission introduced new Best Value indicators for the identification of contaminated land and the sufficiency of information, BV216a and BV216B respectively. These BVPI will contribute to the Council's overall Comprehensive Performance Assessment (CPA) rating from 2006/ 7. The lengthy timescale for sampling and remediation of high risk sites is likely to prejudice a level of performance which compares favourably with other Local Authorities. Current estimates, based on comparison with other Local Authorities suggests that a minimum of 10-15 sites per annum is required to achieve upper quartile performance.
- The current legal budget of 0.5K is inadequate when determining liabilities as well as possible appeals.

1.6 How do we compare with other Local Authorities?

The following London Borough's took part in the benchmarking exercise in 2005: Barnet, Brent, Hammersmith & Fulham, Hillingdon, Hounslow, Richmond upon Thames, Slough and Spelthorne. The Authorities did not want to be identified and so findings have been presented as the minimum, maximum and averages.

Summary of findings

	Brent	Minimum	Maximum	Average
No of Staff	2	2	4	3
No of Staff FTE	1.3	1.3	3.2	2.1
Budget	18K	18K	158K	50K
No of planning applications processed	200	19	200	84
No of contaminated land enquiries	34	10	78	37
Fees & Charges for contaminated	£50	£31	£205	£100

land enquiries				
Response times for contaminated land enquiries	4 days	10 days	20 days	14 days

The table above illustrates that Brent has the lowest number of FTE staff, lowest budget to undertake investigations and processes the highest number of planning applications.

1.7 Local Land Charges and Con 29

The form "Enquiries of Local Authority" (known as form Con.29) supplements the Register of Local Land Charges by seeking information which is outside the scope of a land charge but may be relevant to those with an interest in the land. In respect of contaminated land the council will provide details of entries on the Contaminated Land register.

The key consideration for the Council is where entries on a register may result in a depreciation of land or property.

2.0 CONTAMINATED LAND LIABILITY

The LA has a duty to inspect their area from time to time and identify contaminated land in the borough. This must be conducted in a strategic and ordered manner and action taken should be proportionate to the seriousness of risk presented.

As a result we are required to ensure that resources are concentrated on areas where we are most likely to find contamination and ensure that the polluter pays for remediation works required where possible. The Council will seek to ensure sites are remediated voluntarily where possible.

This paper outlines the process of apportioning liability, the definition of an appropriate person and who might be excluded and on what grounds.

2.1 Determining Liability

Where the Council is unlikely to secure remediation of a site voluntarily then it must determine who should be served with a notice to ensure clean up of a site.

2.1 The Definition of the "Appropriate Person"

Part IIA of the Environmental Protection Act 1990 defines two different categories of persons who may be liable for remediation of a contaminated site.

Class A persons are so called because they are the primary polluter having caused or knowingly permitted the substances to be in, on or under so as to contaminate it.

Where a Class A person cannot be identified or located then responsibility for the remediation of the site falls to a class B person and is usually the previous or current owner or occupier of the land in question.

Determination of the level of liability for each class rests on the definition of causing or knowingly permitting which both have strict definitions under the law. In the context of Part IIA, what is "caused or knowingly permitted" is the *presence* of a pollutant in, on or under the land and refers to an involvement in some act to bring about pollution, previous knowledge or a failure to act in certain circumstances.

2.2 Apportioning liability

Where more than 1 person is required to carry out remediation work because of the presence of different substances a notice will be served on each specifying what has to be done

Where more than 1 person is responsible for cleaning up the same contamination the notice will specify the proportion of works and costs to be borne by each person

Before serving a notice we will endeavour to consult the appropriate persons about what needs to be done and therefore need to determine the extent of the problem, whether a determination is required and apportion liability to each polluter involved

Once a site is identified as contaminated the local authority is then required to inform by notice the appropriate agency, land owner, occupiers and other appropriate persons of their findings.

2.3 The Procedure for Determining Liabilities

The DETR Circular 02/200 outlines the procedure to follow to determine which appropriate persons should bear liability for remediation. That procedure consists of the five distinct stages set out below.

Stage 1- identifying potential appropriate persons and liability groups

The identification of all potential appropriate persons will differ in complexity according to whether the contamination is the result of a Single Significant Pollutant linkage (SPL) or a number of pollutant linkages.

Where no CLASS A or CLASS B persons can be found for a given SPL then there will be no liability group for that linkage and it should be treated as an orphan linkage.

The Council will also have to determine which exemptions apply at this stage, for example a Class B person is exempted from liability arising from the escape of a pollutant from one piece of land to other land

Stage 2 - characterising remediation actions

At this stage the action required to address each SPL must be outlined. Where there are two or more SPLs the Council must establish the nature of each action required, namely SINGLE-LINKAGE ACTION; or a SHARED ACTION (defined as common or collective).

A COLLECTIVE ACTION replaces actions that would have been appropriate for the individual SIGNIFICANT POLLUTANT LINKAGES if they had been addressed separately, as it achieves the purposes which those other actions would have achieved.

Stage 3- attributing responsibility to liability groups

Where there is only a single SPL the liability group bears the full cost of remediation and attribution is not necessary since all future actions will refer to the same SPL.

Where there are two or more SPL's, the Council will use the Statutory Guidance to attribute to each of the different LIABILITY GROUPS their share of responsibility for that action for each shared action.

If at this stage all liability has been apportioned to Class A persons then the Class B persons will be omitted from the rest of the process.

Stage 4 - excluding members of a liability group

The Council then needs to consider, for each LIABILITY GROUP with two or more members, who should be EXCLUDED from liability. Reference will need to be made to the exclusion criteria outlined in the Guidance.

Stage 5 - apportioning liability between members of a liability group

At this stage the Council must determine how any costs attributed to each LIABILITY GROUP should be apportioned. Reference will need to be made to the apportionment criteria outlined in the Guidance.

2.4 Agreements on liabilities

The 5-stage procedure will be taken to apportion liability by the Council.

The Council will support joint agreements where two or more appropriate persons decide between themselves the basis on which they think costs should be borne or apportioned for any remediation for which they are responsible. In such circumstances the Council would expect to be provided with a copy of such an agreement and will allocate liabilities between the parties reflect the terms of the agreement.

The Council will not support such agreements where they result in an increase to the costs borne by the Council.

2.5 Definition of orphan linkage

Where the linkage is an orphan linkage, the council has the power to carry out the REMEDIATION itself, at its own cost (see Finance)

If all of the members of a liability group benefit from one or more of these exemptions, the council should treat the significant pollutant linkage in question as an orphan linkage

2.6 Limits on costs borne by the appropriate person

There may be circumstances where one of the appropriate persons served with a remediation notice will not be required to meet in full the share of the remediation costs. This may preclude the Council from serving a remediation notice in respect of those actions on any appropriate persons.

In making its decision, the authority must have regard to hardship but would seek to recover from each APPROPRIATE PERSON the entire share of its reasonable costs APPORTIONED to that person wherever possible.

Where the decision is made to seek none or part costs of that person's apportioned share of the authority's reasonable costs it is precluded from serving a REMEDIATION NOTICE and has the power to carry out the REMEDIATION ACTION in question itself and recover the costs later.

If there is evidence that the circumstances of the APPROPRIATE PERSON have changed in some relevant respect after the Council has made this decision we will need to reconsider how much of its reasonable it costs will seek to recover.

2.7 Where this is no APPROPRIATE PERSON

The Council has the power to carry out a remediation action if, after reasonable enquiry, it has been unable to find an appropriate person for that action.

2.8 The appropriate person cannot be required to carry out a remediation action

If pollution relates to one or more significant pollutant linkages and the pollution of controlled waters (and not to any significant harm), and is either a Class B person or waters are associated with mine workings

If the pollution results from the escape of the pollutant from other land onto the contaminated land in question, and both the appropriate person is a CLASS B person, and remediation deals with significant harm or the pollution of controlled waters on land other than the contaminated land in question:

- **The Council may** consider whether it appropriate to carry out a REMEDIATION ACTION itself on behalf of the APPROPRIATE PERSON for example in the case of home-owners identified and must secure a written agreement to do so. Written agreement will also be required for the appropriate person to reimburse the authority for any costs which he would otherwise have had to bear for the REMEDIATION.

- **Action by the Council**

Where the council is not permitted to serve a remediation notice because we will conduct the remediation we must ensure that the same process for determining liabilities. This includes ensuring transparency in determination of exclusions and apportioning liability to ensure costs are recovered.

Where the Council conduct remediation it is precluded from serving a remediation notice unless remediation action is undertaken using its powers with respect to urgent action or limitations on costs.

Where the Council is precluded from serving a remediation and conducts the remediation it will be under a duty to prepare and publish a remediation statement recording how remediation will be undertaken, parties responsible and timescales for completion. Details of the remediation will then be placed on the Contaminated Land register.

2.9 Remediation notice

The council will serve a notice where remediation of a site cannot be undertaken voluntarily and where the authority has no power to carry out remediation itself.

When the authority is satisfied that it has consulted sufficiently, and subject to the timing requirements outlined in the Guidance the Council will be under a duty to serve a remediation notice on each appropriate person requiring the relevant remediation action to be carried out.

Any person who receives a REMEDIATION NOTICE has twenty-one days to appeal to a magistrates' court, against the notice. Where Notice is served by the Environment Agency appeals are made to the Secretary of State.

If an appeal is made, the remediation notice is suspended until final determination or abandonment of the appeal and all details of the appeal are entered on the Contaminated Land Register.

2.10 Action during a suspension of a notice

Where the requirement to carry out particular remediation actions is suspended during an appeal, the Council will consider whether this makes it necessary for the authority itself to carry out urgent remediation.

The Council needs to consider whether to seek to recover its reasonable costs in such cases as our ability to do so may be affected by the appeal decision

2.11 "SIGNING OFF"

Part IIA does not include any formal "signing off" procedure, the Council may wish to consider writing to the appropriate person, confirming the position with respect to any further enforcement action. In a case where a remediation notice has been served and appears to have been complied with, this could confirm that the authority currently sees no grounds, on the basis of available information, for further enforcement action.

2.12 Remediation has not been carried out

Part IIA makes it an offence for any person to fail to comply with a remediation notice "without reasonable excuse". The question of whether a person had a "reasonable excuse" in any case is a matter of fact to be decided on the basis of the particular circumstances of that case. For example, where remediation cannot be undertaken as members of the liability group have not paid or refuse to.

A person convicted of the offence of non-compliance with a remediation notice is liable to a fine not exceeding £5,000 plus additional daily fines of up to £500 until works are undertaken.

Where the contaminated land to which the notice relates is industrial, trade or business premises, the limit on the fine is higher: the fine may be up to £20,000, with daily fines of up to £2,000.

The Council needs to consider whether to carry out the remediation action itself and can decide to do so whether or not it decides to prosecute the appropriate person.

3.0 FINANCE

3.1. How do we recover the Costs of Carrying out Remediation?

In general, where the local authority has carried out the remediation itself, it is entitled to recover reasonable costs it has incurred. The Local Authority has no power to recover any costs incurred in carrying out investigations on the land to determine whether it was contaminated land.

In deciding to recover the costs the local authority must have regard to any hardship which the recovery might cause to the appropriate person. The local authority has no power to recover its costs where:

(a) The local authority itself was the appropriate person

(b) The person who would have been an appropriate person for remediation action could not have been required to carry out that action under the terms of a remediation notice, because it related to the pollution of controlled waters or to the escape of the pollutant from other land.

(c) The local authority carried out the remediation with the written agreement of the appropriate person

In the first two of the above cases, the local authority itself has to bear the costs of carrying out the remediation. If the local authority carries out the remediation with the written agreement of the appropriate person, reimbursement by the appropriate person will be under the terms of the written agreement.

If the local authority decides to recover all or a part of its costs, it needs to consider whether to do so immediately (which will involve an action in the county court or High Court, if payment is not made) or to postpone recovery and where this is possible safeguard its right to cost recovery by imposing a charge on the land in question. A charging notice may also be served to safeguard the authority's interests where immediate recovery is intended.

3.2 Charging Notices

The Council will safeguard its rights to cost recovery by imposing a charge on the land in question, and will do so by serving a charging notice. The local authority is entitled to serve a charging notice if the appropriate person from whom it is recovering its cost is both:

- (a) a class A person and
- (b) the owner of all or part the contaminated land.

On the same day as the local authority serves any charging notice, it must send a copy of the notice to every other person who to the knowledge of the authority has an interest in the premises capable of being affected by the charge.

Any person served with a charging notice or who receives a copy of it can appeal against it to a county court. If any such appeal is made the local authority must include prescribed particulars of that appeal on its register. The charging notice itself will not appear on the register. The power to make regulations on the grounds of appeal against a charging notice and the related procedure has not been exercised. It is therefore for the county court to determine what grounds of appeal it will accept; the ordinary county court procedures for appeal will apply.

A charging notice can declare the cost to be payable with interest by instalments within a specified period until the whole amount is repaid.

If the local authority needs to enforce the charge, it has the same powers and remedies under the Law of property Act 1925 as if the authority were a mortgagee by deed having the powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

3.3 What if the cost of undertaking the work runs into several thousand?

We do not have the funds available to undertake works that run into several thousand pounds.

3.4 What is the Meaning of the Term “Hardship”?

The term “hardship” is not defined in Part 2A of the Environmental Protection Act and therefore carries its ordinary meaning – hardness of fate or circumstance, severe suffering or privation.

However, the term “hardship” is used in other legislation. There is a substantial body of case law about its meaning under other legislation. For example, it has been held appropriate to take account of injustice to the person claiming hardship, in addition to severe financial detriment. Although the case law may give a useful indication of the way in which the term has been interpreted by the courts, the meaning ascribed to the term in individual cases is specific to the particular facts of those cases and the legislation under which they were brought.

Central Government Support to Local authorities

3.5 What if the Council owns or previously owned or used the land?

The Department for Environment Food & rural Affairs (DEFRA) runs a programme of support for capital costs incurred by local authorities in dealing with land contamination where they:

- (a) own the land
- (b) are responsible for its contamination or
- (c) have other statutory responsibilities for carrying out remediation, including the use of powers to carry out remediation under section 78N of Part 2A. For example, where

no person has, after reasonable inquiry been found who is an appropriate person in relation to any particular thing or where the local authority undertakes remediation for the purpose of preventing the occurrence of any serious harm, or serious pollution of controlled waters of which there is imminent danger.

All local authorities who are entitled to receive DEFRA support are invited annually to bid for support from this programme for particular schemes. Schemes are assessed against environmental criteria and prioritised.

Support under this programme is not available for work needed solely to facilitate the development, redevelopment (this is done under planning legislation) or sale of land. Financial support for remediation in connection with the development or redevelopment of land may be available through other Government programmes such as those run by English Partnerships and the regional development agencies.

4.0 LIAISON & COMMUNICATION STRATEGY

4.1 The systematic identification of land throughout the Borough will be complex and time consuming. A detailed Desktop study followed by a Risk Assessment approach has taken over 3 years to complete.

In order to fully document and assess the land in the Borough it is vital that communication at ALL levels is undertaken. This requires effective collaboration and liaison with other bodies. Environmental Health understands that sensitive land contamination issues require skills in listening, to be seen to listen, act and respond appropriately. It is vital to the whole process that the most effective communication is a two way process that respects the views of all participants.

The following table is a summary of the communication processes planned. It shows how the Council will communicate the Contaminated land Inspection Strategy (adopted in 2002) and any further works that follow on from it.

Table: Planned communication processes

Type of communication	Advantages	Disadvantages	Notes
Steering Group and Working Party	Liaison with all Council Departments to disseminate best practice and achieve consistency throughout the Council	Views and priorities may differ	Already set up and formulating Policy.
Focus Groups	Opportunity to learn about concerns and "test the water". Works best with select target audience. Consider setting up groups from various backgrounds	Interested parties may need to be selected carefully to ensure they are representative. Response can be shaped by questions asked	Need to conduct at least 2 focus groups to have confidence in the output. Need to use a skilled facilitator.
Media Media Briefing Telephone responses Press releases	Gets your message across to key journalists and enables you to take control of the issue and establish yourself as a key information source.	Proactive media management gives no guarantee of balanced coverage. Non-media stakeholders should not learn about an issue first in the media.	Always use Communications team to ensure professional advice. Never rely on just media briefings. Always engage with key stakeholders directly.
Open Day Allows interested parties	Fosters small groups and one-to-one discussions.	Potentially difficult to document public input.	Be prepared for a crowd Encourages people to

to find out about issues at their own pace.	Allows vivid presentation of issues and information Builds credibility.	Staff intensive	comment Provides feedback mechanisms.
Type of communication	Advantages	Disadvantages	Notes
Briefings Regular meetings to inform and learn reactions	Control of information Similar briefings can be re-used for different groups.	Some people may be hostile Audience may feel unable to express views/concerns	Simple, accessible information – not overly technical Provide time/mechanism for feedback and discussions
Public Information material Fact sheets Newsletters Brochures Briefing notes Display	Can reach target audience Encourage written response if comment form is enclosed.	Only as effective as the mailing list No guarantee that materials will be read	Keep it simple, brief and accessible Use visual material Include pre-paid envelope FAQ's work well Could be left in libraries schools or other public facilities for wider access.
Website	Has a broad approach Interactive Can hold a lot of information/visuals	Potentially limited to a targeted audience	Can use materials that are already prepared Make sure it is kept up to date Ensure somebody responds to e-mail promptly

4.2 Communicating with Owners, Occupiers and Other Interested Parties

Inspection Programme

The inspection of each site will be carried out in accordance to the most appropriate methodology.

The inspection process for each site will be:

a) Desk study

This is the collation and assessment of information held internally and externally e.g. planning history, records of the site OS maps, any previous site investigation reports, assessments and data.

b) Site and area reconnaissance

Site reconnaissance is the walkover and visual inspection of the site where possible in order to verify the status of the site and to identify potential receptors on site e.g. dwellings and occupiers, animals and ditches and mitigation measures such as gas venting systems. Area reconnaissance is to identify major potentially sensitive receptors and land use zones which could be impacted by the site and also key potential off-site receptors e.g. local residents, dwellings and surface watercourses.

c) Preliminary intrusive site investigation

Following risk assessments based on a) and b), intrusive site investigation may be required to further assess risks and determine contaminants. Intrusive investigations at this stage may conclude that no further action is required or further investigation is required to quantify the scale, type and/or depth of contamination.

d) Further intrusive site investigation

This may include further soil sampling including a number of processes including off site groundwater monitoring and gas monitoring. Officers may have to use their powers of entry to undertake detailed inspection of the site.

Before undertaking any intrusive site investigations appropriate liaison will be undertaken after consulting with the communications team. As part of this process internal liaison between different sections of the Council for currently or previously owned Council land will be essential. Liaison will be required between the following:

- Property & Assets Management
- Environment Agency
- Owners of sites
- Occupiers of sites
- Occupiers of adjacent sites
- Health Protection Agency, DEFRA, Food Standards Agency, Water Authority, English Nature, English Heritage and other appropriate agencies
- Elected members
- The media
- Health & Safety Executive

4.3 Remediation

Once the intrusive investigations are complete remedial action may be required. This Authority's approach to regulatory duties is to seek voluntary compliance before taking enforcement action and this approach will be continued in the implementation of the contaminated land regime. It is recognised that in many cases more effective site remediation can be achieved through agreement rather than enforcement and the regulations seek to foster this approach. Where an "appropriate person" undertakes voluntary remedial action, any material that requires disposal via landfill will be exempt from landfill tax. This exemption does not apply to sites where a remediation notice has been served.

This approach requires effective communications with owners, occupiers and other interested parties. Ward Councillors will be fully briefed.

4.4 Determination of an area of contaminated land

Where a parcel of land is designated statutorily contaminated then the following action will be undertaken:

- Write to the owner and/or the occupier of the land at least 5 working days prior to designation, explaining the reason for designation.
- Write to the owner and/or occupier explaining the land has been designated as contaminated land and seeking appropriate remediation without service of a Notice.
- If requested, despatch a copy of the written Risk Assessment to the owner/occupier of the land within 5 working days of receipt of a request.
- Write to the owner/occupier of neighbouring properties and/or the complainant within 5 working days of designation.

Formal notification of designation of contaminated land is required to be forwarded to the Environment Agency.

4.5 Serving a Remediation Notice

- Provide a written Remediation Notice to the owner/occupier specifying action required.
- Write to the owner/occupier of neighbouring properties and/or complainant within 5 working days of Notice being served.

Should an urgent designation of contaminated land be required, these steps will be observed as far as practicable although some deviation from these timescales may be required, subject to legal advice.

4.6 Enforcement Action

The Council has signed up to the enforcement concordat to ensure consistent, fair and transparent practices are used when taking enforcement action. Contaminated land investigations will be carried out in accordance with this policy.

4.7 Risk Communication

The complex nature of contaminated land issues does not lend itself to easy explanation to the layperson. Combination of a number of methods of communication from The Planned Communication Table above will enable an effective method of risk communication to all interested parties. The regulations grant only limited powers to the Council to deal with materials present in, on or under the ground. Many members of the public believe that any material that is not naturally present in the ground should be removed, especially if it is in the vicinity of their own home. It is critical to explain this can only be done where there is a significant risk of significant harm and it is expected that members of the public will have difficulty accepting this.

4.8 Monitoring Progress of Brent's Contaminated Land Inspection Strategy

The Environment Agency is required to prepare an Annual Report for the Secretary of State on the state of contaminated land in England and Wales. Their report includes:

- A summary of Local Authority inspection strategies, including progress against the strategy and its effectiveness.
- The amount of contaminated land and the nature of the contamination
- Measures taken to remediate land.

As the Council is the lead regulator on contaminated land, with the Environment Agency regulating some categories of sites, the Environment Agency's Annual Report will be reliant on information provided by local authorities. A memorandum of understanding has been drawn up between the Environment Agency and the Local government Association that describes how information will be exchanged between the Local Authority and the Environment Agency. We already provide the Environment Agency with the information following the guidelines agreed through this national forum.

The Council is also required to provide information to the Environment Agency whenever a site is designated as contaminated land and whenever a Remediation Notice, statement or declaration is issued or agreed.

4.9 Data Handling and Access to Information

The Council produced its Contaminated Land Inspection Strategy in 2002 as required by law. As a result we must maintain a register of regulatory actions taken under Part IIA of the Environmental Protection Act, which must be made available for public inspection at all reasonable times.

4.10 Environmental Information Regulations 2004

Implementation of the Strategy has and will continue to generate significant volumes of data which will be held on computer databases as well as on paper. The Environmental

Information Regulations 2004 (EIR) place an obligation on the Council to progressively make environmental information available to the public by electronic means, to take reasonable steps to organise this information with a view to systematically releasing it to the public, and to allow the public access, by request, to environmental information in a similar, although not identical way, to the Freedom of Information Act (FOIA). Environmental information is exempted from the Freedom of Information Act in section 39 by virtue of the existence of the EIR.

Should a third party purchase land following a refusal on the part of this Council to supply information requested on its condition and the Council has identified it at that stage as potentially contaminated land, that party may wish to seek a remedy against the Council should the site be subsequently declared as contaminated land and lose value as a result.