

Chapter 5. Procedures

The Environmental Health Department has established a series of procedures, in order that a consistent service can be provided when dealing with contaminated land. By setting out the procedures in this way, it enables people with an interest in the issue to know what to expect from the Council. This is useful from the perspective of both a concerned resident and from an owner/polluter of potentially contaminated land.

5.1 Management arrangements for inspection and identification

The Environmental Protection Section of the Environmental Health Department, situated in St Nicholas House, St Johns Road, Newport, will take the lead role within the Council for dealing with contaminated land. This Section has an existing role advising the Planning Department, developers and property purchasers on contaminated land issues. Although this Section is responsible for implementing Part IIA of the Environmental Protection Act 1990, other Council departments will be involved. The Environmental Protection Section also has responsibility for implementing the other aspects of the Environmental Protection Act 1990 and the Integrated Pollution Prevention and Control (IPPC) Regulations 2000.

The lead officer within the section is the Contaminated Land Officer, reporting to the Principal Environmental Protection Officer. The Contaminated Land Officer will be responsible for the inspection of the Island, the determination of sites as “contaminated”, negotiating voluntary remediation and issuing remediation notices. Advice will be sought from the Council’s Legal Services Department and the ITC Department will assist with data-management.

It is envisaged that the majority of contaminated sites will continue to be remediated during redevelopment through the existing planning control system. The Planning Department will continue to seek advice regarding individual planning applications which may be affected by potentially contaminated sites, and the advice provided by Environmental Health will be taken into account by the Planning Department when formulating future Unitary Development Plans.

Members of the Council will be notified, as soon as possible, of any decision to determine Council owned sites as “contaminated land”. Keeping the Members informed will enable appropriate decisions to be made with a better understanding of the processes involved and with sufficient time for debate.

5.2 Considering local authority interests in land

The Isle of Wight Council has a large portfolio of land in its ownership. Much of this land is linked with sensitive uses, for example sites used as schools, allotments and recreational grounds and open spaces. The Council may also have owned, leased or polluted land which it no longer occupies. The Council is likely to be liable for the cost of remediation for any of the sites mentioned

above which are considered to meet the Part IIA definition of contaminated land.

Land that the Council owns or leases (or did so previously) will be investigated in the same way as privately owned land. The Council will operate two functions in investigating land that it owns: regulator and landowner. These two functions will be kept separate and will not be compromised. The risk ranking methodology (based on DETR guidance CLR 6) will be used to undertake an initial prioritisation of the potentially contaminated sites which require further investigation. Chapter 4 outlines the prioritisation and that Council owned sites with the same risk-prioritisation score will be investigated before sites with the same score (unless harm to human health is imminent). Cooperation with the Corporate Property Officer is ongoing and will be essential when undertaking investigations into Council owned sites.

For specific projects the Council can apply to Central Government for Supplementary Credit Approval to fund remediation of land it owns. This source of funding is likely to be used if the Council must remediate land that it owns.

5.3 Information collection

The Council has some of the data necessary to identify contaminated sites on the Island. Environmental Data will also be purchased in order to enable a comprehensive inspection of the whole Island for contaminated sites. Much of this information is in digital format which will enable the data to be used in a Geographical Information System (GIS). The GIS will be the primary tool for storing environmental information regarding contaminated land. The Council does not, at present, have a corporate GIS. The Environmental Health Department will therefore seek to purchase either ArcView or MapInfo GIS software in order to be compatible with the major suppliers of digital data and the (soon to be) digitised Unitary Development Plan. A GIS provides a suitable means of storing a large amount of spatial data which can be updated quickly and used to produce maps and correlate information held about potential contaminants, pathways and receptors. Table 7 below shows the data that the Council intends to purchase or will use in order to ensure an informed and rational inspection of the Island.

Table 7.

<u>Type of data</u>	<u>Format/ Source of information</u>	<u>Used to identify contamination:</u>
Historic landuse maps	Historic maps at various epochs starting mid-late 19 th century to present from County Record Office.	Sources
Potentially contaminated sites	Digital map of points, polygons and lines of areas where previous landuse is likely to have resulted in contamination. From Landmark or own research. GIS	Sources
IPC Processes sites	Prescribed (IPC Part A) process under Part 1 of the EPA. From EA. GIS	Sources
RAS licensed sites	Radioactive Substances Act 1993 authorised sites. From EA GIS	Sources
Contaminated Site files	EA records of potentially contaminated sites including investigation reports. GIS	Sources
Alkali Act License Sites	EA database of industrial sites since 1906 which required such a license.	Sources
Pre/ post COPA 1974 sites	Environment Agency database. GIS	Sources
Waste transfer/ treatment/ recycling stations	EA Waste Management Licensed sites (post 1994) database.	Sources
Pre-1974 (COPA licensing) landfill sites	PBC records held in Environmental Health	Sources
Site Investigation reports	PBC records held in Environmental Health relating to previous planning applications.	Sources/ Pathways
Aerial photographs	Planning Department/ Archaeology Centre / National Monuments Record and County Record Office	Sources
Kelly's Trade Directories	County Record Office	Sources
Local history books & records	County Record Office	Sources
Thompson directories/ Yellow Pages/ Phone book	Reference Library	Sources
Solid Geology	Digital and paper maps at scale 1:50000 From BGS. GIS	Pathways
Drift Geology	Digital and paper maps at scale 1:50000 From BGS. GIS	Pathways
Artificial Deposits	Digital maps at scale 1:50000 From BGS. GIS	Sources/ Pathways
Geological Memoirs	British Geological Survey	Sources/ Pathways/ Receptors

Groundwater Vulnerability map	Environment Agency. GIS	Pathways/ Receptor
Licence-exempt water supplies/ abstractions	Environmental Health Department records	Pathways/ Receptor
Licensed surface and groundwater abstractions	Environment Agency licensed water abstractions GIS	Pathways/ Receptor
Groundwater source protection zones	Environment Agency GIS	Pathways/ Receptors
Surface water courses	OS Landline mapping GIS	Receptors
SSSIs	UDP & English Nature GIS	Receptors
AONB	Unitary Development Plan GIS	Receptors
Special Areas of Conservation (SACs)	English Nature GIS	Receptors
Special Protection Areas (SPAs)	English Nature GIS	Receptors
National Nature Reserves (NNRs)	UDP& English Nature GIS	Receptors
Ramsar sites	English Nature GIS	Receptors
Local Nature Reserves (LNRs)	UDP & English Nature GIS	Receptors
Sites of Importance for Nature Conservation	Unitary Development Plan GIS	Receptors
Scheduled Ancient Monuments	Archaeology Centre & English Heritage	Receptors
Archaeological Sites	Sites and Monuments Record, Archaeology Centre	Receptors
Listed Buildings	Planning Department & English Heritage	Receptors
Residences with/without gardens	OS Landline mapping GIS	Receptors
Schools/ nurseries	OS Landline mapping GIS	Receptors
Allotments/ agricultural land	OS Landline mapping GIS	Receptors
Ancient Woodland	UDP & English Nature GIS	Receptors
Parks and Open Spaces	Unitary Development Plan GIS	Receptors
Agricultural Land Classification	Environmental Health Department Records/ MAFF	Source/ Receptor

Some of the information outlined above will be used in order to prioritise sites for further investigation, whilst other information will only be used for further investigation of those sites for which it is thought necessary.

5.4 Procedure for designating and remediating a contaminated site

Once a site is selected for further investigation, a full desk-top study will be undertaken in order to further establish the likelihood of the site meeting the statutory definition of contaminated land i.e. to establish the existence of a significant pollutant linkage (see figure 1). This stage will also be used to ascertain the interested parties and the appropriate person(s) i.e. those liable. Figure 7 shows the procedure in a detailed flow diagram. The first question that must be answered, however, is whether other powers can be used to ensure remediation. If they can, the site must be dealt with using these powers (see section 5.5.1).

Where appropriate statutory bodies, the Council's Archaeology Centre, Ecology Officer and Conservation Officer will be consulted to aid the assessment of risk and the sensitivity of the receptors. They are likely to have more specialist knowledge of issues of concern to them, than exists in the Council. The interested person(s) will also be contacted at this early stage and asked for any information they have. The procedure will also be explained to them in order to seek their cooperation. The desk-top study stage will use archive sources from the County Record Office and Reference Library, as well as any records the Council keeps, such as old planning applications. It is also recognised that special interest groups and local people might possess valuable information. Company records are another valuable resource which can pin-point potential contamination sources which can reduce the cost of remediation by tailoring remedial works more specifically to the actual sites of contamination.

Following the desk-top study, if it is thought that the site may meet the statutory definition of contaminated land, a site visit will take place (accompanied by the statutory bodies if they wish to attend). If necessary, this will be undertaken using statutory powers of entry under Section 108(6) of the Environment Act 1995 in order to verify the findings of the desk-top study and to get a better understanding of site conditions. The legislation allows entry after 7 days notice if the Council has the occupier's consent or if the Council obtains a magistrate's warrant.

The site visit will be useful in order to aid the future design of an intrusive site investigation. Soil/ water samples may be taken at this stage. Entry can be made without a warrant in an emergency i.e. when there is an imminent risk of pollution or significant harm to human health. The Council may pay compensation for disturbance caused during inspection using statutory powers of entry. It is not envisaged that these powers of entry will be required often. Where the receptor potentially affected is the responsibility of a statutory body, a representative of the appropriate body will be invited to take part in the walkover survey.

FIGURE 7. NEW CONTAMINATED LAND REGIME: ENFORCEMENT PROCEDURE -

ABBREVIATIONS AND TERMINOLOGY

AP = Appropriate Person - person liable to be served with a remediation notice (see Liability Group (LG) in companion chart on liability)

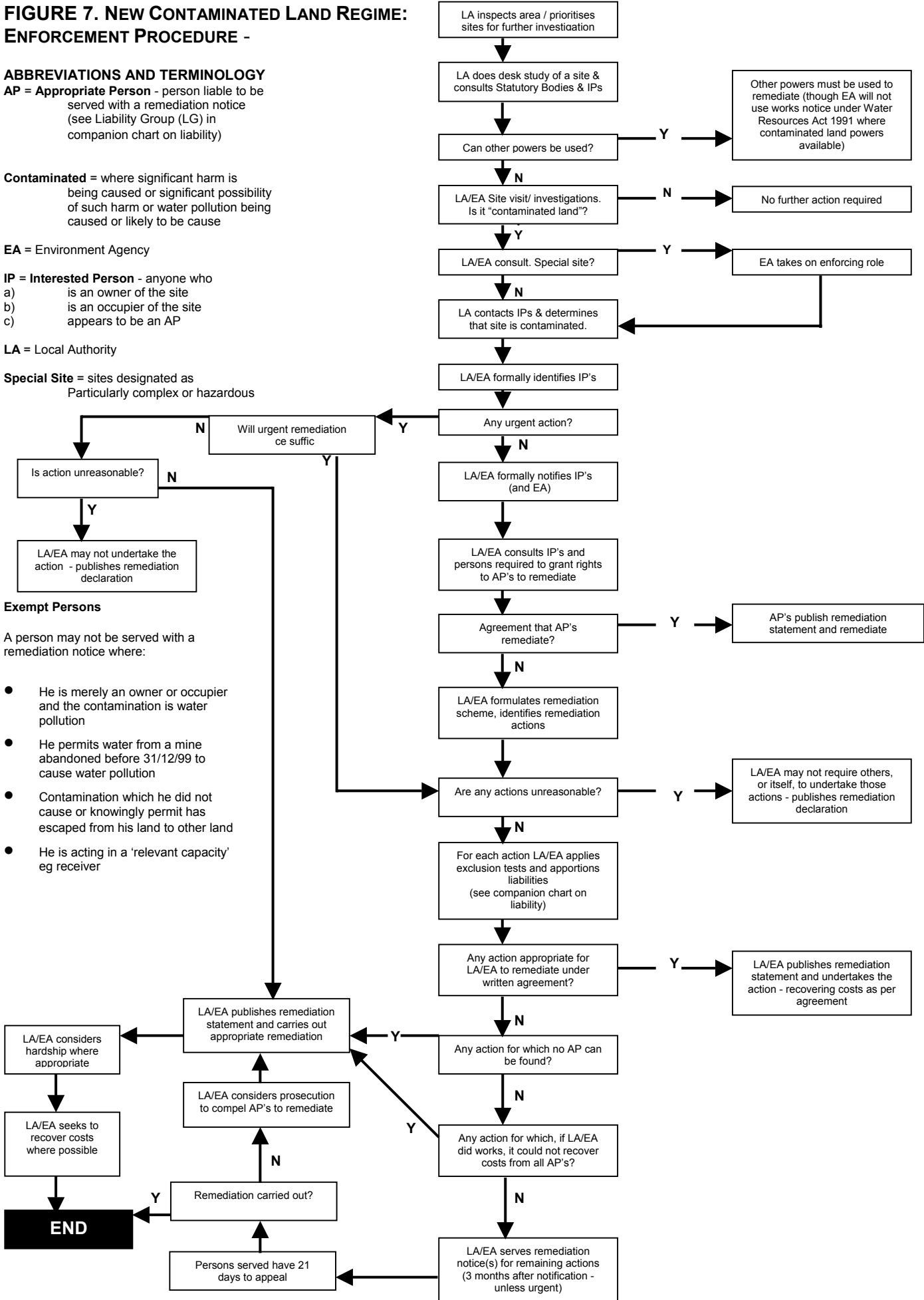
Contaminated = where significant harm is being caused or significant possibility of such harm or water pollution being caused or likely to be cause

EA = Environment Agency

IP = Interested Person - anyone who
 a) is an owner of the site
 b) is an occupier of the site
 c) appears to be an AP

LA = Local Authority

Special Site = sites designated as Particularly complex or hazardous



If the Council deems the presence of a significant pollutant linkage to be more likely than not, then it may undertake an intrusive site investigation. The advice of the Environment Agency will be sought and must be complied with. An intrusive site investigation would usually consist of a series of boreholes, trial pits and sampling. The Council must have evidence to support the existence of a significant pollutant linkage to determine the site as being contaminated land. The Council will compile a list of established Consultants and Geotechnics companies to ask for quotes. For large projects, the work will be tendered in line with Council standing orders. Supplementary Credit Approval may be sought from the DEFRA to fund the Council's intrusive site investigation work, both for land it owns and for privately owned sites that the Council will investigate as part of the inspection of the Island.

Before undertaking an intrusive investigation the Archaeology Centre will be consulted in all cases to establish the presence of any known archeological remains of interest. If there are, care will be taken during investigation and an archeological assessment may be made prior to remediation.

If at any stage the Council has sufficient evidence of a significant pollutant linkage, then the Council will determine the site as being contaminated land. The Council will write to the interested person(s) within 5 days to notify them of the determination and whom the Council considers to be the "Appropriate person(s)". If the Council considers the site to be a "Special Site" (i.e. a site regulated by the EA), it is likely to have asked the EA to undertake the investigation on the Council's behalf (see section 6.3 & 5.6). The EA will, in this instance, have been informed of the Council's decision (which will have been based on the advice of the EA). If the EA agrees with the Council that the site is special, the EA will take the role of regulator and the Council will have no more to do with the site. The EA will maintain its own public register of contaminated sites. Any sites that appear on the EA's public register will also be forwarded to the Council and placed on the Council's register, together with a note that it is a special site and regulated by the EA.

If no urgent remedial action is required, the Council or EA will begin the processes of consultation with the appropriate person(s) to try to negotiate voluntary remediation of the site. If this is agreed, a remediation statement will be published and the work will commence.

The Council need not establish the full extent of the ground conditions in order to make the determination. The information gained from site investigations must however be known in order to design a remediation scheme. This information can be required of the appropriate person(s) as an "assessment action" required as part of a remediation notice.

The Council must only require the appropriate person(s) to undertake reasonable actions. If agreement cannot be reached to undertake voluntary remediation, the Council must design a remediation statement and apportion liability (and remedial actions) between the appropriate person(s). The Council will then apply the exclusion from liability tests (see section 5.7). If any one of the appropriate persons cannot be asked to pay for their portion of

the cost of remediation because it would cause them “hardship”, the legislation states that the Council must undertake the remediation and shoulder the cost (again Supplementary Credit Approval maybe available to fund this). The term “hardship” is not defined in Part IIA and therefore carries its ordinary meaning:- hardness of fate or circumstance, severe suffering or privation.

It may be that an agreement can be made between the appropriate person(s) that the Council undertakes the remediation and then charges the appropriate person(s) for it. If no agreement can be made with the appropriate person(s) and they refuse to remediate, a remediation notice will be served on them, not less than three months after the determination. This is seen as a last resort. If a remediation notice is not complied with, the Council will consider prosecution in order to ensure remediation.

The removal of waste from a contaminated land site to landfill is exempt from landfill tax, except if a remediation notice has been served. This, it is hoped, will encourage the appropriate person(s) to undertake remediation voluntarily. The appropriate person(s) have 21 days to appeal to a magistrate after the serving of a remediation notice. Legal Services will be consulted before any remediation notice is served.

It may not be possible for the Council to find an appropriate person or prove that they were responsible for “causing or knowingly permitting” the contamination. In these cases the Council must undertake the remediation and shoulder the cost (using Supplementary Credit Approval).

In all cases, the Council will try to ensure that it recovers costs it incurs due to remediation. However, it will not be able to recover the costs for “orphan” sites, where it would cause hardship, and for sites that it owns. The Council must also pay for site investigations needed to determine a site.

5.5 Information and complaints

Occasionally, the Council receives complaints of contaminated land from, members of the public, businesses, statutory organisations or voluntary organisations. Information about contamination may be provided without prompting from a person who is not directly affected by the site. Such information provision may change the priorities of the Council in dealing with contaminated sites. The following are the procedures developed for adoption by the Council when supplied with information regarding contaminated land.

5.5.1 Procedure for reacting to complaints and urgent site remediation

Whilst the new contaminated land regime takes account of sites which may require urgent remedial action, it is not designed as a tool for tackling the effects of new pollution incidents. In such cases, existing legislation must be used (see Table 8). Part IIA of the EPA (Environmental Protection Act 1990) is only to be used to ensure remediation where no other powers exist (except

that the EA will not use its Works notices under sections 161 to 161D of the Water Resources Act 1991 where Part IIA legislation can be used).

Table 8.

Existing powers which should be used to remediate contaminated land include:

- Section 27 of the EPA 1990 for situations where harm is caused by breach of IPC controls under section 23(1)(a) or (c). This is only for sites with IPC licences under Part 1 of the EPA 1990. The Council will consult with the EA about such cases as the remediation itself may require an IPC license in some cases. The EA and the Council regulate IPC licensed sites. All those IPC sites currently licensed by the EA (i.e. Part A processes) will become special sites. The IPPC regime will be phased in and will introduce new powers for the EA to require the operator of permitted plants to remedy the effects of any breaches of their permits.
- Section 59 of the EPA 1990 empowers the EA to remove illegally deposited controlled waste and to deal with the consequences of it having been there (i.e. any contamination).
- Waste Management Licence conditions should be included to prevent or remediate contamination on, or originating from, an operational site with a Waste Management Licence.
- The Statutory Nuisance process (EPA 1990) was used to deal with contaminated land before the insertion of Part IIA. Any existing abatement notices will continue, though an amendment to section 79 of the EPA 1990 prohibits the future use of these powers except where deposits or substances on land give rise to such offence to human senses as to constitute a nuisance (e.g. a reek).
- Section 85 of the Water Resources Act 1991 provides the EA with powers to enforce the remediation of land that has been contaminated by a pollution incident and which is or may cause pollution of controlled waters.

The risk based approach for dealing with contaminated land means that evidence of the existence of a significant pollutant linkage must be gained before the site can be determined as contaminated land. This will usually involve undertaking ground investigations such as boreholes, trial pits and gas monitoring. This is a time consuming process, which is not conducive to reacting in a timely way to pollution incidents that contaminate land.

The approach to be adopted to respond to contaminated land complaints is similar to the procedures for dealing with other Environmental Health complaints. On receipt of a complaint, an officer from Environmental Protection Section of the Environmental Health Department will contact the complainant as soon as possible, between 4-8 working days. All complaints will be logged on a database. Whilst the complainant's details will be taken, these will remain confidential (unless the complainant has given consent) in all circumstances except where a remediation notice is appealed against in court. Even then, the complainant's identity will only be revealed where the

complainant's health was affected adversely by the contaminated land and if this was an important reason for the contaminated land determination. The Council will keep the complainant informed of progress towards resolution of the problem or concern.

A site visit will be arranged and the person responsible for the source of contamination will be contacted. The site visit will enable an assessment to be made of the significance of the risk associated with the contamination. A decision will be made as to whether any legislation, other than Part IIA can be used to ensure remediation. If there are no other powers then Part IIA will be used to pursue remediation. If the latter is the case then a significant pollutant linkage must be proven. If necessary, a desk-top study will be undertaken to further ascertain the nature, probability and significance of any pollutant linkage that may be present.

If the contamination is deemed to be causing an imminent danger of serious harm or serious pollution of controlled waters, then the Council (or the EA in the case of "special sites") will ensure that urgent remediation commences as soon as possible after the site is determined as contaminated.

In urgent cases, which pose an imminent risk, the Council need not undertake consultation with the owner, occupier and appropriate person(s), though the Environment Agency will be consulted. The Council also need not wait 3 months between issuing a determination notice and issuing a remediation notice. In emergencies, the Council need not give 7 days notice to enter a site (Section 108(6) of the Environment Act 1995).

The Council must issue the determination notice and consider whether by issuing a remediation notice as soon as possible, it would result in remediation being carried out soon enough. If not, the remediation notice does not need to be sent, and the Council (or EA in the case of "special sites") may act to remediate the site to a reasonable standard. However, the Council must provide a remediation statement, detailing the works undertaken. The Council will recover the costs of emergency remediation from the appropriate persons as it would if acting in default. However, the Council will only carry out the minimum amount of works required to remediate against the ongoing or imminent harm. A more comprehensive programme of remedial action may be required of the appropriate persons.

The Council is most likely to undertake urgent remediation itself where the appropriate person is unable to afford to undertake the remediation or cannot be identified. The Council will otherwise endeavour to ensure timely remediation by the appropriate person(s) and avoid acting itself where an appropriate person(s) exist and can afford to pay for remediation.

Any understanding gained from site visits or desk-top studies will result in the site being re-prioritised for further investigation (see Chapter 4). Site investigation may result from a complaint in the normal way.

5.5.2 Procedure for dealing with information provided voluntarily

Information received voluntarily, either from the public or an interested party such as the owner or previous occupier of the site, will be looked at within 5 working days, but not treated as a complaint. There will be no obligation on the Council to keep the person or organisation informed of progress towards resolution, as there may not be anything to resolve, though the Council may chose to do so as an example of good practice.

The site will be visited if this is deemed necessary, by Environmental Health staff. The information will be used, with caution, to re-prioritise the order in which the sites receive further investigation. The authenticity and level of accuracy of the information will be established as far as possible by the Council's investigations. The nature and severity of the contamination information will determine whether the site is investigated sooner, and if so, how much sooner. It may be that the new information shows the site to be clean and can therefore be taken off the list of potentially contaminated sites to be investigated. The other extreme would show a site needed urgent remedial action, possibly by the Council itself.

5.5.3 Anonymously supplied information

It is unlikely that the Environmental Health Department will undertake investigation into contaminated land based on anonymously supplied information. The decision to investigate or otherwise will depend upon the quality of the information received.

5.5.4 Anecdotal evidence

The information which residents and employees possess is a valuable resource. Such information will be treated with respect and this may trigger investigation. However, the determination of a site as being contaminated land will only take place where there is robust scientific evidence of a source of contamination, a pathway and receptor. Designation will not take place solely on the basis of hear-say.

5.6 Identifying special sites

In the case of potential special sites, the Environment Agency (EA) will be consulted for site-specific advice as part of the desk-top study that forms the first stage of investigations (following the site prioritisation stage of the inspection of the Island). At this stage, any information the Council has about the site will be given to the EA. The EA will be invited to attend a site walk-over survey as part of the initial investigations. If further investigations are deemed necessary, the EA will normally be asked to undertake these investigations either on the Council's behalf or to assist the Council in its investigations (as agreed case-by case).

N.B. It is the Council's duty to determine a special site prior to handing it over to the EA.

The Local Authority will, in most cases, conform to the EA's suggestion as to whether or not pollution of controlled waters is being caused (or significant harm is being done for sites that are licensed by the EA). The sites which would become special sites and therefore have the EA enforce Part IIA of the EPA are listed below.

- Certain Water Pollution-causing sites (see Appendix 3 for the full definition)
- Certain Industrial Sites:
 - Waste Acid Tar Lagoons
 - Oil Refining
 - Explosives
 - IPC sites regulated by the EA (i.e. part A processes)
 - Nuclear sites
- Ministry of Defence property

All MoD land except off-base housing and off-base NAAFI premises, would become special sites were they identified as being contaminated land. The EA has been chosen to undertake enforcement of Part IIA for MoD land to ensure adequate communication and a consistent approach across the country. The Local Authority is responsible for enforcing Part IIA in the normal way for land which the MoD has disposed of to civilian ownership and land which the MoD uses for training etc. but which it does not own (i.e. these do not become special sites).

5.7 Liability

See figure 8 for a detailed breakdown of the "liability groups" and "exclusion tests". The definitive text regarding liability is Chapter D of the *DETR Circular 02/2000*. In summary, any persons who "caused or knowingly permitted the presence of contaminating substances" is liable for the cost of remediation and necessary site investigation (Class A persons). If the polluter (Class A persons) cannot be found, the owners or occupiers (Class B persons) are liable for the cost of remediation.

Table 9.

<p>Circumstances in which Class A persons can be excluded from liability:</p> <ul style="list-style-type: none">• If they are acting as Receivers or are Lenders• Where the land has been sold at a reduced price because of contamination• Land sold with information• Where the pollutant has changed because of the introduction of other substances• Escape of substances caused by subsequent intervention• Subsequent introduction of pathways or receptors

Where there are more than one Class A or Class B persons, liability will be based on the level of responsibility for the pollutant linkage or relative stake in the capital. The Council has to ensure and pay for remediation if any member of the liability group would otherwise be caused hardship.

FIGURE 8: The New Contaminated Land Regime: Liability Flow Chart

Abbreviations and Terminology

Class A = persons who "caused or knowingly permitted" presence of substances on site

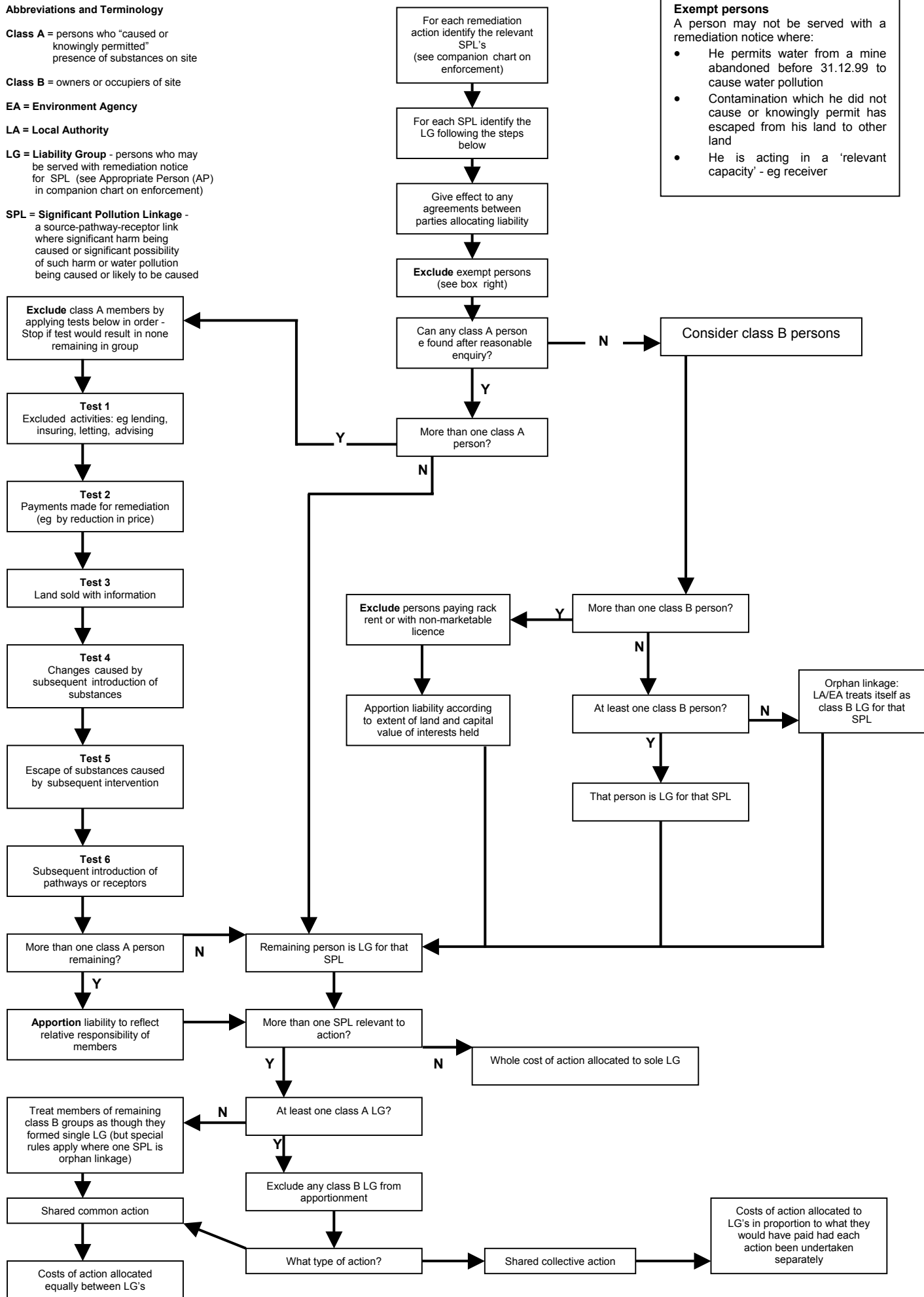
Class B = owners or occupiers of site

EA = Environment Agency

LA = Local Authority

LG = **Liability Group** - persons who may be served with remediation notice for SPL (see Appropriate Person (AP) in companion chart on enforcement)

SPL = **Significant Pollution Linkage** - a source-pathway-receptor link where significant harm being caused or significant possibility of such harm or water pollution being caused or likely to be caused



Exempt persons
A person may not be served with a remediation notice where:

- He permits water from a mine abandoned before 31.12.99 to cause water pollution
- Contamination which he did not cause or knowingly permit has escaped from his land to other land
- He is acting in a 'relevant capacity' - eg receiver

5.8 Information evaluation

The tiered process of screening all the potentially contaminated sites by selecting those in close proximity with receptors where a pathway may exist, the desk-top study, site visit, sampling and intrusive investigation are all part of a process known as Risk Assessment. The “suitable for use” based definition of contaminated land contained in the legislation, requires an assessment of the risk a contaminant poses to a series of receptor types which are specified in the legislation (Appendix 2). In order to make an assessment of risk, all the stages of investigation are likely to be carried out for each site that is determined by the Council to be statutory “contaminated land”. However, in order to approach the analysis of the soil/water sample data in a transparent and consistent manner, guideline concentration values will be used.

Although such guidelines will be used, risk assessment can never be entirely quantitative. The analysis of data, the research and the design of site investigations and remediation schemes will always rely on the judgement and experience of staff. The Council’s Environmental Protection staff will use their expertise in conjunction with advice from more specialised statutory bodies, consultants and aids such as guideline values, to make the final decisions about what level of risk is present.

The Environment Agency and partners are currently working on new guidelines: the Contaminated Land Exposure Assessment (CLEA) guidelines. These should be with the Council by early 2002. These guidelines are being developed and tested to meet the specific needs of Councils and the EA in assessing the extent of the risk to the various statutory receptors (Appendix 2). The CLEA guidelines provide a model, which allows the input of various environmental parameters to calculate the risk posed, and the maximum concentrations of contaminants that can be safely present. These guidelines will be followed closely. The guidelines will both aid in the investigation of a site as to whether or not it should be determined as “contaminated land”, and provide clean-up concentration values of use to the Council, appropriate persons and developers when deciding how to remediate.

Before these guidelines are published, the Council will continue to use older risk assessment packages. These include the SNIFFER Framework (for calculating risks to human health) and the EA’s Research and Development Publication (R&D 20) for calculating risk of pollution of groundwater. Both these packages are produced by British environmental regulators and are therefore deemed to be appropriate to British soil conditions and legislation.

In addition to the risk assessment packages mentioned above, a series of older numeric guideline concentrations will be used such as the ICRCL 59/83 (2nd edition, July 1987). These give “trigger” and “action” concentration levels of metal contaminants in soils. However, these were designed to assess whether remedial works should be undertaken for the redevelopment of a site. The values have no bearing on the sensitivity on the end-use of the site and are therefore to be treated with caution. ICRCL publication 70/90 (1990) is the

only guidance that relates specifically to agricultural land and will be used accordingly.

Another set of guidance, which will be used only until the CLEA guidance is available, is the Dutch Intervention Values guidance. The Health and Safety Executive also publishes occupational exposure levels which will also be taken into account until CLEA is introduced. For sites potentially affecting controlled waters, the site-specific advice of the EA will be sought.

5.9 Unitary Development Plan

Every effort will be made to supply the planning department with information about contamination and potentially contaminated sites to ensure they make decisions based on all available data. The planning department will be contacted when the next Unitary Development Plan is to be drafted. Sharing information with the Planning Section should ensure that appropriate development is permitted on areas of contamination. It should be noted that an area of land containing contaminants may require a high value (and sensitivity) development to take place in order to make the remediation of the site financially viable.

5.10 Avoiding the Council buying new liability

The Property Services Department will be able to consult with the Environmental Health Department before making a property/ land purchase. This will allow an assessment of the likelihood of the site being designated “contaminated land”. If the site is likely to meet the statutory definition of contaminated land, and therefore be designated, the Council may still purchase the property, but at a suitably reduced price.

5.11 Financial Implications for the Council

The Council has employed a dedicated member of staff and provided a budget to cover equipment and the maintenance of a GIS. There are however, two more substantial costs the Council will incur:

- i. the cost of intrusive site investigations (of all the sites that the Council investigates), and;
- ii. the cost of remediation of Council owned sites and sites that have no traceable or financially able “appropriate person” (see section 5.7 and Figure 7).

The Council is likely to apply for Supplementary Credit Approval for investigation and remediation of these sites. However, an application for such funding must be made by February of the previous financial year, and based on firm estimates of cost. This is likely to cause a delay.

