



Renfrewshire  
Council

# **CONTAMINATED LAND STRATEGY**

**PART IIA of The Environmental Protection Act 1990**

RENFREWSHIRE COUNCIL  
Environmental Services Department.  
**JULY 2001.**

**RENFREWSHIRE COUNCIL**  
**ENVIRONMENTAL SERVICES DEPARTMENT**  
**CONTAMINATED LAND STRATEGY**

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## 1. Introduction

The new statutory regime for identification and remediation of contaminated land made under Part IIA of the Environmental Protection Act 1990 came into force in Scotland with effect from 14th July 2000. These new provisions provide the legislative framework for the identification and remediation of contaminated land introducing for the first time a statutory definition of contaminated land. The regime is aimed at addressing land which has been historically contaminated and which poses unacceptable risks to human health or the wider environment in the current use of the land. The regime adopts a risk based "suitable for use" approach to remediation, and applies the "polluter pays" principle to apportionment of liability.

Land contamination where a change of use is concerned will continue to be dealt with under the planning system and this system will remain a key mechanism for managing land contamination as part of land redevelopment and regeneration. The Scottish Executive have issued advice to planning authorities on the development of contaminated land, in the form of Planning Advice Note 33.

Duties have been assigned to both local authorities and the Scottish Environment Protection Agency (SEPA).

Renfrewshire Council are required by the Act to:

- (a) inspect its area in order to identify contaminated land and to designate special sites.
- (b) act as the enforcing authority for all contaminated land not designated as a 'special site'. (SEPA will be the enforcing authority for 'special sites').
- (c) ensure remediation of land identified as contaminated.
- (e) maintain a public register of prescribed information relating to contaminated land

Statutory Guidance issued by the Scottish Ministers on the implementation of Part IIA indicates that local authorities shall prepare a written inspection strategy detailing how they propose to implement their inspection duties.

Renfrewshire Council will prepare a written inspection strategy detailing how it will fulfill these statutory duties. The inspection strategy requires to be formally adopted and published by October 2001 with a copy issued to the Scottish Environment Protection Agency.

To assist in the reading of this strategy document a glossary of some of the terms used is to be found in Appendix A.

In carrying out its inspection duties under Section 78B(1), the Council will take a strategic approach to the identification of contaminated land which merits detailed individual inspection.

The approach will:

- (a) be rational, ordered and efficient;
- (b) be proportionate to the seriousness of any actual or potential risk;

- (c) seek to ensure that the most pressing and serious problems are located first;
- (d) ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land;
- (e) ensure that the Council efficiently identifies requirements for the detailed inspection of particular areas of land.

In developing this strategic approach the Council will consider local circumstances. In particular it will consider the following key issues:

- (a) any available evidence that significant harm or pollution of controlled waters is actually being caused;
- (b) the extent to which any (as outlined in Appendix C) is likely to be found in any of the different parts of the Council's area;
- (c) the extent to which any of those receptors is likely to be exposed to a contaminant, for example as a result of the use of the land or of the geological and hydrogeological features of the area;
- (d) the extent to which information on land contamination is already available;
- (e) the history, scale and nature of industrial or other activities which may have contaminated the land in different parts of its area;
- (f) the nature and timing of past redevelopment in different parts of its area;
- (g) the extent to which remedial action has already been taken by the Council or others to deal with land contamination problems or is likely to be taken as part of an impending redevelopment;
- (h) the extent to which other regulatory authorities are likely to be considering the possibility of harm being caused to particular receptors or the likelihood of any pollution of controlled waters being caused in particular parts of the Council's area.

In developing its strategic approach, the Council will consult with the Scottish Environment Protection Agency and other appropriate public authorities i.e. Scottish Enterprise National and Scottish Enterprise Renfrewshire, Scottish Natural Heritage, Historic Scotland and the Scottish Executive. It will keep its strategy under periodic review and will not await the publication of the strategy before commencing more detailed work investigating particular areas of land, where this appears necessary.

The Council is the lead regulator for contaminated land and will, as well as undertaking consultation with the Scottish Environment Protection Agency, notify them:

- (a) in writing of land which it identifies as being statutorily contaminated within its area.
- (b) of land that the Council considers to be designated as a Special Site as prescribed in the Contaminated Land (Scotland) Regulations 2000.

The Council will seek advice from them and if the land is so formally identified notify the Agency in writing of the designation as a Special Site.

Renfrewshire Council's aims in dealing with contaminated land are:

1. To protect human health.
2. To protect controlled waters.
3. To protect designated ecosystems.
4. To prevent damage to property.
5. To prevent any further contamination of land.
6. To encourage voluntary remediation.

An initial inspection programme based on population density is proposed with the most densely populated areas being inspected first, followed by the smaller conurbations and villages. However, if information is received by the Council concerning land outwith these areas which poses significant harm or a significant possibility of such harm or the pollution of controlled waters this will then be considered for introduction into the initial inspection process.

All land within Renfrewshire for which the Council is the owner, or may have been the lessee or polluter will be included in the inspection process.

Controlled waters and protected areas of the environment will also be examined.

A risk based prioritisation programme will be undertaken to identify areas and sites which require assessment in more detail.

Renfrewshire Council will keep a public register containing specific information relating to contaminated land which will be available for free public inspection at all reasonable times.

*Note: The term "harm" as used in this strategy document means "significant harm or significant possibility of significant harm".*

#### Background Legislation.

Environmental Protection Act 1990: Part IIA.

Environment Act 1995 (Commencement No 17 and Saving Provision) (Scotland) Order 2000 (S.I.2000/180).

The Contaminated Land (Scotland) Regulations 2000 (S. I. 2000/178).

Scottish Executive Guidance contained in Circular 1/2000.

### **1.1. General Policy of Renfrewshire Council.**

Within its Corporate Plan 1998-2001 Renfrewshire Council set out how it proposes to address the main issues it believes need to be tackled in the new millennium, in order to maintain the appeal of the area and to ensure the health and prosperity of the people who live there. The Corporate Plan takes account of changes affecting Renfrewshire including:

- trends in the local economy, population, housing, health, safety, disadvantage and environment;
- the Government's agenda which will set new responsibilities and challenges as well as providing fresh opportunities to address local problems.

Renfrewshire Council's Corporate Plan commits the Council to ensuring a healthy, sustainable environment by improving, protecting and sustaining the environment. It

aims to provide high quality services that meet the local needs and will be guided in all it does by:

- involving and empowering local people, communities and organisations;
- listening and communicating with local people and organisations;
- working in partnership with other public, voluntary, private and community organisations;

A vision of Renfrewshire in 2010 is described in the consultative draft of the Renfrewshire Community Plan as “A thriving, safe and forward-looking community which provides opportunities for all, and which cares for its people and its environment”. The Community Plan also aims to improve access to information and services.

The principles for a Local Agenda 21 have been established in this Community Plan document and along with the Corporate Plan provides a firm foundation for LA21 strategy development.

This strategy aims to bring about “sustainable development” through integrated social, economic and environmental improvements and one of twelve themes of sustainability within this document relates to pollution from various sources including contaminated land.

The industrial revolution of 100 years ago saw the expansion of steel, coal, chemical and other industries. The consequences of this industrial development to the environment were not fully realised and did not look towards a sustainable future.

Industrial processes disposed of waste by tipping it on the land and raw materials and fuel were often spilt, contaminating the land at the sites.

Knowledge of such previous industrial land usage may assist in determining areas of Renfrewshire which are likely to have contamination present or assist in identifying contaminants

Today land contamination can still arise from unintentional leaks and spills at various sites. Contaminants can range from solvents to oil, petrol, and heavy metals. In addition the sources of contaminants are not just restricted to industrial processes, other sources can include agricultural activities, inadequate waste disposal, deposition from the atmosphere and everyday activities such as petrol distribution and dry cleaning.

However today, there is a much greater appreciation of the environmental impacts of industry and releases to the environment are now regulated to guard against adverse impacts.

Renfrewshire Council will act as lead and enforcing authority for contaminated land within its area and undertake its duties under Part IIA of the Contaminated Land regime to provide a system for the identification and remediation of land where contamination is causing unacceptable risks to human health or the wider environment assessed in the context of the current use and circumstances of the land.

It should be noted that areas of land which whilst being contaminated will not meet the statutory definition of contaminated land and as such be described as areas of land contamination.

Consultation and involvement with local businesses, community groups, public and voluntary organisations who have an interest in contaminated land issues will be addressed as well as facilitating public access to relative information on contaminated land.

In the undertaking of the specific strategy provisions contained in Part IIA of the Environmental Protection Act 1990 Renfrewshire Council's overall policy aims will thus be implemented ensuring its continuing commitment to a healthy sustainable environment for Renfrewshire.

## **1.2 Regulatory Context**

Under the new regime the Council is required to give notice of land identified as contaminated (or designated as a special site) to SEPA, and to each person who appears to be the "appropriate person".

There are two groups in the category of "appropriate persons".

The first is those who caused or knowingly permitted any contaminant to be released in, on or under the land. Each of these is referred to as a Class A person.

The second is that in the absence of a Class A person, responsibility will pass to the current owner or occupier of the land, who is referred to as a Class B person.

The above process is subject to limitations. If the problem caused by contamination is solely one of water pollution then it does not apply and responsibility may also be restricted by other limitations for instance where hardship may be caused.

The overriding objective of the new regime is to enforce the "polluter pays" principle.

However it is hoped that voluntary remediation will be initiated by businesses and land owners without the need to serve remediation notices.

Where no Class A or B person can be found, or no Class A person can be found and the significant pollutant linkage relates solely to the pollution of controlled waters and not significant harm, then the site is classed as an orphan site and the Council will itself bear the cost of any remediation which is required to be carried out.

There is at least a three month consultation period (bypassed in cases where urgent remediation is justified) following the identification of contaminated land to allow the Council and the "appropriate persons" to reach a decision as to the remediation of the contaminated land.

There are four possible outcomes of this consultation period:

- (a) the appropriate person agrees to undertake remediation and issues a remediation statement, in consultation with the enforcing authority.
- (b) the enforcing authority serves a remediation notice on the appropriate person(s), where no indication is provided that appropriate remediation will be undertaken.
- (c) the enforcing authority uses its power to undertake remediation itself and issues a remediation statement.
- (d) it is unreasonable to require remediation in which case the enforcing authority issues a remediation declaration (if circumstances change after a remediation declaration has been issued, a remediation notice can be subsequently

served or if voluntary remediation is undertaken a remediation statement may be issued.).

The new regime under Part IIA adopts a risk-based 'suitable for use' approach to remediation and applies the 'polluter pays' principle to apportionment of liability.

Costs for remediation will be borne by the appropriate person(s), whether Class A or B. They will typically be identified prior to notification or during the subsequent consultation period and the Council will make the determination on apportioning liability. Where the appropriate persons issue a remediation statement, they may agree the apportionment of costs between themselves.

### **1.2.1 Council Regulatory Role**

The duty of designating and regulating contaminated land sites lies primarily with the Council.

The exception being is the case of "special sites", where the Council designates and notifies these kind of sites to SEPA, which then becomes the enforcing authority.

The Council has been given the primary regulatory role under Part IIA since local authorities have historically been responsible for dealing with statutory nuisance caused by land contamination, and through also being the leading body on land use planning issues.

Renfrewshire Council's duties are:

- (a) to cause its area to be inspected to identify contaminated land;
- (b) to determine whether any particular site is contaminated land;
- (c) to act as enforcing authority for all contaminated land which is not designated as a "special site".

Other main tasks are:

- (a) to establish who should bear responsibility for the remediation of the land (the "appropriate person" or "persons");
- (b) to decide, after consultation, what remediation is required in any individual case and to ensure that such remediation takes place, either through agreement with the appropriate person, or by serving a remediation notice on the appropriate person if agreement is not possible or, in certain circumstances, through carrying out the work itself;
- (c) where a remediation notice is served, or the Council itself carries out the work, to determine who should bear what proportion of the liability for meeting the costs of the work.
- (d) to maintain a public register of specific information relating to contaminated land.

### **1.2.2 Regulatory Role of the Scottish Environment Protection Agency (SEPA)**

Under the new contaminated land regime it is the duty of SEPA to:

- (a) ensure the remediation of land designated as a special site.

- (b) maintain a public register containing specific information for special sites.
- (c) prepare a national report on the state of contaminated land.

A special site is land which has been identified as being contaminated within the meaning of Part IIA of the Environmental Protection Act 1990 and which is of the following and which is of the following summary description:

- (a) land where -
  - 1. controlled waters which are, or intended to be, used for the supply of drinking water for human consumption are being affected by the land and as a result require a treatment process or a change in such a process to be applied to those waters before use, so as to be regarded as wholesome within the meaning of Part VIA of the Water (Scotland) Act 1980.
  - 2. controlled waters are being affected and as such do not meet the specification of waters specified under section 30B of the Control of Pollution Act 1974.
  - 3. controlled waters are being affected by the land and -
    - (i) any of the substances by reason of which the pollution of the waters is being or is likely to be caused falls within the families or groups of substances listed in Schedule 1 of The Contaminated Land (Scotland) Regulations 2000.
    - (ii) the waters or any parts of the waters are contained within underground strata which comprise wholly or partly Devonian Sandstones or Permo-Triassic Sandstones.
- (b) land contaminated by waste acid tars;
- (c)
  - (i) land which has been used for the purification of crude petroleum or oil extracted from petroleum, shale or any other bituminous substance except coal;
  - (ii) land on which the manufacture or processing of explosives has been carried on at any time;
- (d) land on which a prescribed process designated for central control has been carried out;
- (e) land within a nuclear site;
- (f) land owned or occupied or used for naval, military or air force purposes;
- (g) land on which the manufacturing, production or disposal of:
  - (i) chemical weapons;
  - (ii) any biological agent or toxin which falls under the Biological Weapons Act 1994
  - (iii) any weapon, equipment or means of delivery which falls within Section 1(1)b of that Act;

has been carried on at any time; and

- (h) land which:

- (i) is adjoining or adjacent to land of a description specified in sub paragraphs (b) to (g) above; and
- (ii) is contaminated land by virtue of substances which appear to have escaped from land of such a description.

The full statutory definition of special site is described in the Contaminated Land (Scotland) Regulations 2000.

As well as undertaking the statutory duties relating to special sites SEPA has other powers and these include:

- (a) providing site specific guidance to local authorities on contaminated land.
- (b) recovering the costs for remediation work it undertakes itself.

### 1.2.3 Definition of Contaminated Land

Section 78A(2) of Part IIA of the Environmental Protection Act 1990, defines Contaminated Land as:

“any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that -

- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
- (b) pollution of controlled waters is being, or is likely to be caused;”

Section 78A(2) further provides that

“.... in determining whether any land appears to be such land, a local authority shall .... act in accordance with guidance issued by the Scottish Ministers.... with respect to the manner in which that determination is to be made”

The definition does not cover any harm or pollution of controlled waters which is attributable to any radioactivity possessed by any substance.

Also, whilst land may contain pollutants unless it presents a significant risk to an identified receptor, action is not required by the Council.

#### **Definitions:**

“Harm” is defined as meaning:

“harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property”.

whether “harm” is to be regarded as “significant” and whether the “possibility of significant harm” being caused is “significant” shall be determined in accordance with the guidance.

“Substance” is defined as:

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

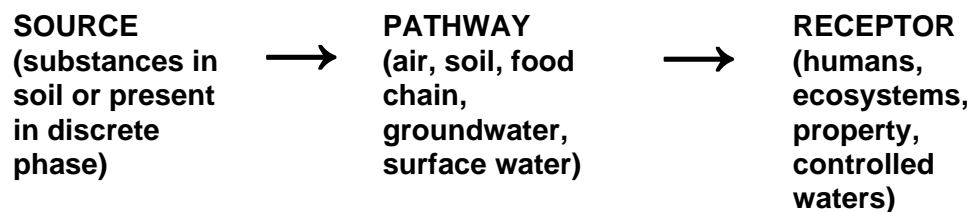
“Pollution of controlled waters” is defined in Section 78A of Part IIA as “the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.”

“Controlled waters” have the same meaning as in Section 30A of the Control of Pollution Act 1974.

#### 1.2.4 Pollution Linkages and Risk Assessment Principles.

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

- i. A source of contamination in, on or under the ground
- ii. A pathway by which the contaminant is causing significant harm (or which presents a significant possibility of such harm being caused)
- iii. A receptor of a type specified in the Scottish Executive Circular 1/2000.



A summary of **Receptors** identified as being potentially sensitive are:

1. Human beings
2. Ecological systems or living organisms forming part of a system within certain protected locations, including:
  - Sites of Special Scientific Interests (SSSIs)
  - National Nature Reserves
  - Marine Nature Reserves
  - Nature Reserves
  - Special Areas of Conservation (SACs)
  - Special Protection Areas (SPAs)
  - Areas of special protection for birds
  - Any habitat or site afforded policy protection (i.e. Candidate SACs, potential SPAs and listed Ramsar sites);
  - Any candidate National Park to be designated under the proposed National Parks Act.
3. Property in other forms
  - Crops including timber
  - Livestock
  - Homegrown produce
  - Owned or domesticated animals
  - Wild animals subject to shooting or fishing rights
4. Property in the form of buildings,
5. Controlled Waters.

The full statutory definition of receptors is specified in the Scottish Executive Circular 1/2000.

If the three components of the pollutant linkage exist, a risk assessment will be undertaken to determine the likelihood of harm being caused and the likely nature and extent of the harm caused if the predicted event actually occurred.

An area of land can only be designated as contaminated land if a pollutant linkage exists and significant harm is being caused to the receptor in the pollutant linkage.

If an area of land has been identified the approach for dealing with it will be the same regardless of whether Renfrewshire Council or SEPA is the regulator.

### **1.2.5 Requirements of the Strategic Approach.**

Renfrewshire Council are required to take a strategic approach to the identification of land which merits detailed individual inspection. The statutory guidance requires that the approach should:

- (a) be rational, ordered and efficient;
- (b) be proportionate to the seriousness of any actual or potential risk;
- (c) seek to ensure that the most pressing and serious problems are dealt with first;
- (d) ensure that resources are prioritised on investigating areas where the authority is most likely to identify contaminated land; and
- (e) ensure that the Council efficiently identifies requirements for the detailed inspection of particular areas of land.

This strategy has been developed to meet these requirements and has been formulated taking into consideration the procedures set out in the Contaminated Land Inspection Strategy Advice Note, Final Draft, August 2000, issued by the Scottish Executive.

### **1.3 Strategy Development.**

Within Renfrewshire Council the implementation of the new contaminated land regime under Part IIA of the Environmental Protection Act 1990 and the preparation of the inspection strategy is the responsibility of the Environmental Services Department with the Environmental Quality Team implementing the statutory duties.

The strategy preparation has been undertaken by an Environmental Health Officer with the assistance of a Technical Officer and with the data management issues being addressed by a Senior Technical Officer from within this Section.

A Contaminated Land Working Group has been formed within the Council consisting initially of representatives from the Environmental Services, Corporate Services, Housing and Property Services and Planning and Transport Departments.

These Council Departments along with the Chief Executives Department have provided information and advice concerning the drafting of the strategy and implementation of the new regime.

Contact persons within each of these Departments have been established in matters relating to contaminated land.

Formal liaison has also been established with:

SEPA

Scottish Natural Heritage

Scottish Executive

Historic Scotland

Scottish Enterprise National/Scottish Enterprise Renfrewshire

Food Standards Agency

Liaison has also been formally established with adjoining local authorities and other organisations who have been identified as having information which will be of assistance in the identification of land as being contaminated. (See Section 5.3)

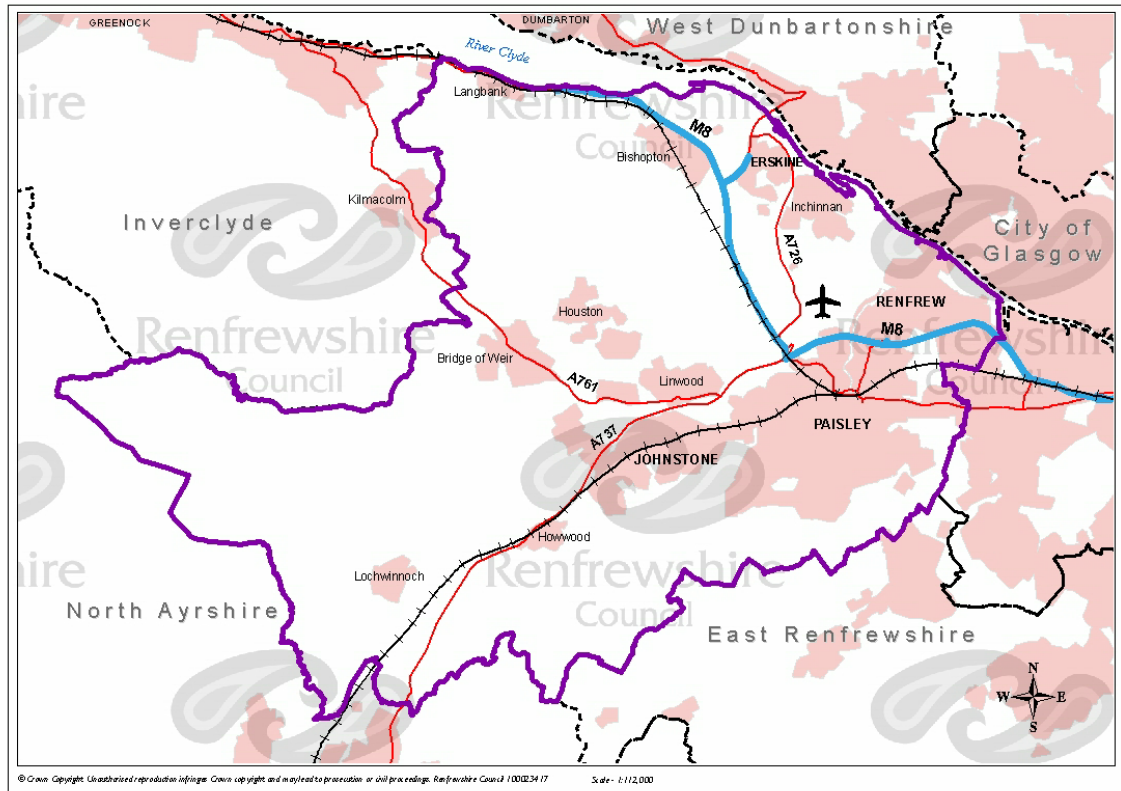
### **1.4 Objectives of the Strategy Document.**

Renfrewshire Council has identified the following objectives for its strategy document:

- ◆ To meet the requirements of the Scottish Executive Circular 1/2000 in producing, formally adopting and publishing a written strategy by October 2001 and in accordance with paragraph B.15 of the Scottish Executive Circular 1/2000. (See Appendix G for details).
- ◆ To demonstrate how Renfrewshire Council will take a strategic approach to the identification of contaminated land in accordance with paragraphs B.9 and B.10 of Scottish Executive Circular 1/2000. (See Appendices E & F for details).
- ◆ To inform interested parties of Renfrewshire Council's intentions with respect to contaminated land.
- ◆ To provide information to SEPA for its report on contaminated land.
- ◆ To provide a mechanism for the regular review of the strategy to allow for changes in Guidance etc.
- ◆ To take account of local circumstances in the strategy development.

## 2. Characteristics of Renfrewshire

### 2.1 Geographical Location



Renfrewshire is situated to the west of Glasgow on the south bank of the River Clyde and covers nearly 270 square kilometers (26,875 hectares). To its west lies Inverclyde, to its south is North Ayrshire and East Renfrewshire is located to its south east.

The population of Renfrewshire was estimated in 2000 to be 176,970, making it the ninth largest local authority in Scotland in terms of population and Paisley, with an estimated population of some 77,000, its largest town. The former Royal Burgh of Renfrew lies to the north of Paisley and the town of Johnstone lies to the west. Located west of Paisley are the two “new communities” of Houston and Erskine and to the north and west the small towns and villages of Bishopton, Inchinnan, Bridge of Weir, Kilbarchan, Howwood and Lochwinnoch.

TOWN	POPULATION
Paisley	77,033
Elderslie	4,451
Johnstone	18,243
Kilbarchan	3,980
Linwood	9,553
Lochwinnoch & Howwood	4,893
Renfrew	20,260
Bridge of Weir/Houston/Langbank/Brookfield	13,551
Erskine/Inchinnan/Bishopton	22,455

Renfrewshire has an attractive and varied landscape covering both a rural and urban environment. About a fifth of the area of Renfrewshire is built up and the remaining four fifths is rural countryside.

The land in the east and north of Renfrewshire, adjacent to the main towns, is relatively flat and much of it is given over to agricultural uses. The land rises to the Gleniffer Braes in the south and the Renfrewshire Hills in the west.

The rural area provides a rich diversity of landscapes and habitats.

## **2.2 Council owned Land**

The Council and its predecessors own or have owned significant land and property holdings within Renfrewshire. The portfolio of Council owned land currently comprises:

- ◆ 20,000 Council Houses
- ◆ 344 Operational Buildings e.g. Schools etc.
- ◆ 53 Operational Buildings/Sites which are currently declared surplus (i.e. available for sale).
- ◆ 300 Commercial Buildings (Shops, Industrial Units etc. which the Council leases out for rent).
- ◆ 290 Sites e.g. Car parks, Parks, Cemeteries etc.
- ◆ 2000 Parcels of Land.

## **2.3 Geology**

### **Superficial deposits**

The north east corner of the district (north and east of Johnstone) in the vicinity of Renfrew, is underlain by sand and gravel deposits of both marine and fluvial origin. Isolated patches of boulder clay exist in the Erskine area in association with more extensive glaciomarine deposits composed of clay and silt. West of Erskine, the superficial deposits become much thinner and bedrock is generally at or near surface, to the Council boundary with Inverclyde. Only isolated sand and gravel deposits occur in association with the River Gryfe in the west of the region.

The town of Johnstone is the southern extent of the sand and gravels which are dominant down from the River Clyde. These give way to perhaps the largest continuous layer of boulder clay within Renfrewshire extending from Johnstone, through Paisley to Barrhead in East Renfrewshire.

West of Johnstone, bedrock is believed to be at or near surface for most of the central and western parts of the region. Only in the extreme west, on Queenside Muir, is there significant coverage of the bedrock, with peat.

### **Bedrock (solid geology)**

Renfrewshire is underlain by two broad groups of geological strata. In the east and central parts of the region, bedrock is mainly lower carboniferous siltstones, mudstones and limestones. These extend from Erskine, through Johnstone and Paisley to the Council boundary in the east.

The remainder of the district in the west is underlain by the extrusive igneous rocks or lavas of the Clyde Plateau Volcanic Formation.

## **2.4 Hydrogeology**

The Carboniferous strata are moderately permeable. These are fractured or potentially fractured rocks that do not have a high primary permeability. However, although these formations seldom produce large quantities of water for abstraction, they are important for local supplies and in supplying base flow to rivers.

The igneous rocks are classified as weakly permeable and 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.

## **2.5 Key Water Resources/Protection Issues**

Inland waters within Renfrewshire fall within the Cart Catchment comprising of, White Cart Water, Levern Water, Black Cart Water and the River Gryfe. Rural and urban issues affect this catchment which is an important water source for a number of reservoirs in its upper levels. Water quality in the lower reaches of the rivers has not significantly improved in recent years although closure or upgrading of sewage treatment works has been undertaken.

The Clyde estuary on its southern bank between Erskine and Langbank is designated as a Site of Special Scientific Interest (SSSI) and these estuarine mud banks have been recognised as being of international importance.

West of Scotland Water Authority provides the majority of drinking water for premises within Renfrewshire. The Council has records of 105 private water supplies serving domestic and commercial premises including 26 dairy farms, 2 major hotel establishments and 1 soft drink manufacturer.

## **2.6 Protected Locations**

The rural area of Renfrewshire provides a rich diversity of landscapes and habitats. A number of sites have been designated as internationally important for wildlife including the Inner Clyde and the Black Cart at Inchinnan. Ten Sites of Special Scientific Interest and four Nature Reserves have been designated within Renfrewshire. Also, one hundred and seventeen Sites of Importance for Nature Conservation have been identified by the Council.

The Inner Clyde SPA/ Ramsar/ SSSI is to be safeguarded and managed and this provision also extends to the Black Cart which now is confirmed as an SPA.

The recreational potential of the remoter uplands has been recognised through the creation of the Clyde Muirshiel Regional Park which covers the Renfrewshire Hills in the west of Renfrewshire and also extends into Inverclyde and North Ayrshire. The Gleniffer Braes Country Park covers the hills to the south of Paisley and extends into East Renfrewshire.

Renfrewshire also has a rich heritage of historic architecturally important buildings. Over 500 buildings are included in the List of Buildings of Architectural and Historic Merit.

There are seven Conservation Areas three of which, Oakshaw Paisley, Kilbarchan and Ranfurly in Bridge of Weir are designated as Outstanding Conservation Areas. Nearly half of the Listed Buildings lie within Conservation Areas and Renfrewshire Council itself owns over 50 listed buildings, bridges and monuments.

## **2.7 Known Information on Contamination**

Analysis of historical mapping, historical land use mapping and collation of information from various sources including in-house knowledge will assist the Council in identifying potentially contaminated land.

## **2.8 Past and Current Industrial History of Renfrewshire**

Renfrewshire's prominence as an industrial centre dates from the middle of the 18th century when Paisley became the centre of a home based spinning and weaving industry. Weaving, including the manufacture of the famous "Paisley" shawls remained an important domestic industry until the middle of the 19th century and power loom weaving notably in Johnstone and Paisley existed for a time and many of Renfrewshire's most successful textile industries such as spinning, bleaching and dyeing soon changed from domestic to factory production.

These characteristic textile finishing works were located along the Black Cart, beside the many small streams flowing from the Gleniffer Braes to the White Cart and in other sites where an abundant water supply was available. However this industry suffered a decline after the First World War and then again following the Second World War.

The manufacture of sewing thread expanded greatly during the late 19th century with the combining of Coats and Clark forming the largest thread manufacturing concern in the world, and this industry retained a significant presence in Paisley until the 1980's.

Apart from the significance of the thread industry itself, the skills developed in servicing this and the county's other textile related industries established firm foundations for the increasingly important engineering industries which developed as weaving declined.

The establishment of numerous foundries and engine works made Paisley and Johnstone centres of general engineering, with Johnstone specialising in machine tool production and Paisley offering a range of specialisms including various types of textile machinery, equipment for coal mines, for oil and sugar refineries, for woodworking, as well as for the shipbuilding industry including local yards at Paisley and Renfrew. Babcock and Wilcox established at Renfrew in 1895 and noted for the manufacture of boilers, long remained the largest single employer in Renfrewshire.

Coal, ironstone and oil shale have been worked in Renfrewshire particularly in the vicinity of Paisley, Linwood and Johnstone. The comparative lack of coal and iron resources saved the county from any large scale development of mines and blast furnaces and from the more unpleasant landscape features associated with them.

The abundance of pure water which encouraged the textile industries has led in later days to the establishment of paper mills along the Black Cart and tanneries on the River Gryfe.

Other industries within Renfrewshire included furniture making at Lochwinnoch and elsewhere, starch and corn flour works, soap works, brick works, jam and preserves manufacturing in Paisley, an extensive rubber industry principally at Inchinnan and Paisley, the manufacture of railway rolling stock and motor cars at Linwood, and munitions works notably at Bishopton but also at a number of other sites during the First and Second World Wars.

As well as having been one of Scotland's most heavily industrialised counties, Renfrewshire has also been one of the most diverse.

In recent modern times the 1980's saw a marked decline in the manufacturing sector. However the 1990s have seen the expansion of new high-technology companies such as Compaq at Erskine and Inchinnan, and Life Technologies and Vascutek at Inchinnan. Also the expansion of Glasgow Airport, along with associated distribution services and the hotel and leisure sectors have contributed to a broadening of the industrial base and to giving Renfrewshire a relatively more diverse industrial structure.

## **2.9 Redevelopment History/Controls and Action Previously Taken**

In the past when the Council was aware of land contamination it would either be dealt with via the Planning system when a change of use was proposed or using statutory provisions under Part III of the Environmental Protection Act 1990 where a nuisance was being caused. This resulted in control over some but not all types of land contamination.

Early planning conditions generally only considered risks to proposed development and end users and may not have addressed risks to surface waters, groundwaters or ecosystems.

The Environmental Services Department on being aware of possible land contamination would also advise the Planning Department of this fact when processing planning applications. Where site investigation reports accompanied planning applications advice would be given on report contents and land remediation proposals for the Planning Department to take up in the form of planning conditions.

### **3. Aims and Objectives of the Strategy**

It is recognised that contamination of land can have a major impact on the local environment and to this end Renfrewshire Council's policy aim of ensuring a healthy, sustainable environment by improving, protecting and sustaining the environment will be upheld in the aims and objectives of its Inspection Strategy.

#### **3.1 Aims**

To ensure compliance with and the enforcement of Part IIA of the Environmental Protection Act 1990 .

To protect:     (a)     human health.  
                  (b)     controlled waters.  
                  (c)     designated ecosystems.

To prevent damage to property.

To address liability issues associated with the Council's existing and former land holdings.

To encourage voluntary remediation of land identified as contaminated land.

In order to achieve the stated aims the Council will adopt the "strategic approach" (as set out in Section 1.2.5 of this document) to the identification of land that merits detailed inspection and which is consistent with the principles of risk assessment. Therefore, land that displays a demonstrable risk to human health will be prioritised accordingly.

Land for which the Council has responsibilities as a landowner, lessee or polluter will be incorporated into the inspection process and will not receive special treatment.

This is to ensure that all land is treated equally regardless of ownership.

#### **3.2 Objectives.**

To complete an evaluation of potentially contaminated land within Renfrewshire within two years of the date of publication of the strategy.

To complete an assessment of land within two years of the date of publication of the strategy which the prioritisation process described in Section 5.6.1 of this document identifies as being high priority.

This objective will also apply to land for which the Council may be the "appropriate person" dependent on the availability of information from other Council Departments.

To complete an assessment of land within five years of the date of publication of the strategy which the prioritisation process described in Section 5.6.1 of this document identifies as being medium priority.

This objective will also apply to land for which the Council may be the "appropriate person" dependent on the availability of information from other Council Departments.

To collate and review any evidence of actual harm or water pollution within two years of the date of publication of the strategy which the prioritisation process described in Section 5.6.1 of this document identifies as being high priority.

Identify the locations of receptors as set out in Appendix C of this document.

Assess any possible risk to receptors as set out in Appendix C of this document.

Implement a risk based prioritisation package for screening of land as described in Section 5.6.

Evaluate information on possible evidence of contamination.

Establish an efficient liaison and information exchange with other Departments within Renfrewshire Council as described in Sections 1.3 and 5.3 of this document.

Establish an efficient liaison and information exchange with various external bodies and parties etc. as described in Sections 1.3 and 5.3 of this document.

Undertake a periodic review of assumptions and an inspection of priorities as described in Section 8. of this document.

*Note: For both high and medium priority sites the prioritisation process described in Section 5.6.1 and the risk assessment process described in Section 5.6.2 of this document will consider humans as the most important receptor in terms of receptor priority. Consequently the more densely populated areas of Renfrewshire will receive attention before the less densely populated areas.*

## **4. Priority Actions and Timescales**

### **4.1 Priorities**

In order for Renfrewshire to meet the requirements of the Statutory Guidance taking into consideration its particular circumstances and the aims and objectives as previously set out in this document, the following activities have been prioritised for action:

1. Prepare, adopt and publish the strategy document setting out how the Council will implement its inspection duties under Part IIA of the Environmental Protection Act 1990.
2. Cause its area to be inspected in order to identify contaminated land.
3. Determine whether any particular site is contaminated land.
4. Act as the enforcing authority for all contaminated land not designated as a "special site".
5. Establish who is the "appropriate person(s)" to bear the responsibility for the remediation of land identified as being contaminated.
6. Decide what remediation is required and ensure it is undertaken.
7. Decide who bears what proportion of liability for remediation costs.
8. Maintain a public register of specific information relating to contaminated land.

### **4.2 Timescales**

This strategy will, as required, be produced, adopted and published by October 2001.

Detailed work on investigating particular areas of land will be commenced prior to the publication of the strategy if it appears that this is necessary.

Timescales for:

- (a) the evaluation of land;
- (b) the assessment of land which has been identified as being of high and medium priority; and
- (c) the collation and review of any evidence of actual harm or water pollution identified as being high priority [are set out in Section 3.2 of this document].

Further timescales will be implemented as the strategy is updated and reviewed.

## **5. Procedures**

### **5.1 Internal Management Arrangements for Inspection and Identification.**

As indicated in Section 1.3 the implementation of Part IIA of the Environmental Protection Act 1990 within Renfrewshire is the responsibility of the Environmental Services Department within which delegated officers of the Environmental Quality Team will undertake the statutory requirements.

#### **5.1.1 Council Members**

The Renfrewshire Council Housing, Environment and Community Safety Policy Board is responsible for the adoption of the Contaminated Land Strategy and for any subsequent amendments and issues raised concerning the identification and remediation of contaminated land under Part IIA of the Environmental Protection Act 1990.

### **5.2 Renfrewshire Council's Interest in Its Own Land.**

Renfrewshire Council and its predecessors own or have owned significant land and property holdings within its boundary area. Ownership information concerning these holdings is retained by various Departments within the Council i.e. Housing and Property Services, Corporate Services, Planning and Transport Department etc.

Details concerning ownership, records and information are currently being collated by Housing and Property Services as they are presently recorded in various formats within different Departments.

Approximately, 1800 areas of land which have the potential to be contaminated have been identified as requiring initial screening. Some of these areas could have a Council interest and it will be necessary to establish if any of them:

- (a) are or have been owned by the Council;
- (b) are or have been occupied by the Council;
- (c) are areas where the Council may be the "appropriate person" responsible for remediation under the legislation.

As outlined in Section 3.1 land for which Renfrewshire Council is identified as being the owner, or may have been the lessee or polluter, will be included in the inspection process.

Land in respect of which the Council is identified as having an interest and which is identified as being contaminated land will be subject to the same remediation requirements as if it were privately owned.

### **5.3 Information Collection.**

Information Sources for Possible Presence of Contaminants, Pollution of Controlled Waters.

To assist the Council in the initial identification of sites where there has been possible land contamination a software package which has been produced by Landmark and the Ordnance Survey Organisation has been purchased. This package is compatible with the Council's GIS system and provides historical

mapping and historical land use mapping for Renfrewshire from the middle of the 1800's to 1949.

The historic land use data identifies areas of potentially contaminated land by analysing historical mapping and highlighting former usage i.e. industrial premises, quarries and areas of infilling etc.

Geological mapping purchased from the British Geological Survey (BGS.) will assist in the characterisation of possible contamination sources and pathways i.e. contaminant mobility in sands/gravels or retardation in boulder clay.

Additional in-house information sources include:

1. Planning and Building Control for records of any existing knowledge of contaminated sites. **Planning** can also provide up to date and local information as regards brownfield sites and Phase 1 Habitat Survey information on habitats in Renfrewshire.
2. Trading Standards records of current and abandoned petroleum tanks and any details of contamination incidents.
3. Environmental Services Departmental records of any complaints, investigations and records of closed landfill sites.
4. Renfrewshire Council Local Plan identifying current and proposed land use.
5. Renfrewshire Local History Forum.

Other external information sources include:

1. Scottish Vacant And Derelict Land Survey for brownfield sites.
2. Integrated Pollution Control Register and Waste Management Licences Register. Details available from SEPA. SEPA also holds some information on the quality of controlled waters

Information Sources for “ Receptors” and “ Harm”

Hydrogeological mapping purchased from British Geological Survey will assist in the identification of possible receptors e.g. controlled waters and also possible pathways.

Other sources of information include:

1. Scottish Natural Heritage for information on location of environmentally sensitive areas.
2. SEPA as regards location of controlled waters and pollution incidents.
3. Historic Scotland/Scottish Urban Archaeological Trust for records of historic and protected buildings.
4. Scottish Executive as regards use of land, assessment of animal or crop effects.
5. Health and Safety Executive for information on potential releases from premises.
6. Scottish Enterprise National and Scottish Enterprise Renfrewshire.

7. Argyll & Clyde Health Board for information re human health effects.

In addition to those organisations, bodies and departments indicated above the undernoted have similarly been contacted with a request for any information held in relation to contaminated land in Renfrewshire:

1. Adjoining neighbouring authorities i.e. East Ayrshire, East Renfrewshire, Glasgow City and Inverclyde Councils.
2. Royal Society for the Protection of Birds.
3. Railtrack and Railtrack Property Services.
4. MacAuley Land Use Research Institute.
5. British Geological Survey.
6. Local major land owners.
7. Paisley District Chamber of Commerce.

Additional sources of information will be added as appropriate.

#### **5.4 Information and Complaints**

From time to time, the Council may receive a complaint regarding contaminated land from a member of the public, business or a community group. Interested residents may also voluntarily supply information relating to land contamination that is not directly affecting themselves, their families or their property.

These complaints or acts of information provision may have an impact on the approach to inspection and so the procedures to be adopted are detailed here.

##### **5.4.1 General Complaints.**

Complaints from members of the public, regarding contaminated land will be dealt with following a similar procedure as currently used by the Environmental Quality Team to deal with complaints.

All complaints shall be logged and electronically recorded. The complainer shall be kept informed of progress towards a resolution. Every effort will be made to resolve complaints quickly and efficiently.

However, the new contaminated land regime does present a number of obstacles to a speedy resolution of complaints i.e.

1. proof of a viable pollutant linkage before any formal designation as contaminated land is permissible, might only be possible after detailed investigation.
2. prior consultation with interested parties is required before designation as contaminated land.
3. a minimum of a three month period between designation and serving of a remediation notice is required.

4. the requirement for the enforcing authority to make every effort to identify the original polluter of the land.

The regulations allow conditions 2. and 3. to be waived in extreme cases, but not conditions 1. and 4.

Where investigation identifies a site as of being high priority, it will be addressed in the same way as other high priority sites.

#### **5.4.2 Confidentiality.**

All complainers will be asked to supply their names and addresses and, if appropriate, the address giving rise to the complaint. The identity of the complainant will remain confidential. The only circumstance in which this information might be made public would be in the case of a remediation notice being appealed in a court of law and an adverse effect on the complainant's health and/or property was an important reason for the original contaminated land designation.

#### **5.4.3 Voluntary Provision of Information.**

If a person or organisation provides information relating to contaminated land that is not directly affecting their own health, the health of their families or their property, the information will be recorded and depending on circumstances may be acted upon. There will, however, be no obligation for the Council to keep the person or organisation informed of progress towards resolution, although it may choose to do so as general good practice.

#### **5.4.4 Anonymously Supplied Information.**

Generally the Environmental Services Department uses its discretion in investigating complaints based on anonymously supplied information.

#### **5.5 Information Evaluation.**

Taking into consideration the broad history, scale and nature of industrial activities within the Renfrewshire area, all of the information from the sources identified previously will be assessed and evaluated. Along with the Landmark historical mapping and historical land use mapping data, areas of possible contaminated land will be identified.

For a site to meet the definition of contaminated land, a pollutant linkage will require to be established.

A pollutant linkage consists of three parts:

1. A source of contamination in, on or under the ground.
2. A pathway by which a receptor is being exposed to or affected by a contaminant or could be so exposed or affected.
3. A receptor of a type specified in the regulations which is being or could be harmed by a contaminant.

If the three components of the pollutant linkage exist, a risk assessment will be undertaken to determine the likelihood of harm being caused and the likely nature and extent of the harm caused if the predicted event actually occurred. An area of land will only be designated contaminated land if the criteria set out in Section 1.2.3 of this document have been fulfilled.

### **5.5.1 Other Regulatory Regimes**

The new contaminated land regime under Part IIA of the Environmental Protection Act 1990 will complement existing legislation and is anticipated to be used where existing legislation does not apply.

The following are existing regulatory actions that are available to deal with land contamination, i.e.

#### **Planning**

Land contamination where a change of use is concerned will continue to be dealt with under the planning system and this system will remain a key mechanism for managing land contamination as part of land redevelopment and regeneration. In addition to considering risks from existing contamination the planning authority also considers any potential risk from development work and/or a proposed use to contaminate a site or surrounding area.

Where any new development is taking place it will be the responsibility of the developer to carry out any necessary remediation work and for it to be undertaken to the satisfaction of the Planning Authority.

The Scottish Executive have issued advice to Planning Authorities on the development of contaminated land in the form of Planning Advice Note 33.

#### **Pollution of Controlled Waters**

The Control of Pollution Act 1974 (as amended) gives SEPA powers to take action to remedy the pollution of controlled waters. Enforcement action may be instigated against anyone who has "caused or knowingly permitted" a pollutant to enter controlled waters.

There is an obvious potential for overlap between these powers and the Part IIA regime in circumstances where substances in, on or under land are likely to enter controlled waters. It is understood that SEPA will be working with the Scottish Executive to develop a policy on enforcement procedures, particularly in cases where there is an overlap with the Part IIA regime.

No remediation notice can require action to be carried out which would have the effect of impeding or preventing a discharge into controlled waters for which a "discharge consent" has been issued under the Control of Pollution Act.

#### **Waste Management Licensing**

There are three areas of potential interaction between the Part IIA regime and the waste management licensing system under Part II of the Environment Protection Act 1990.

The first is where there may be significant harm or pollution of controlled waters arising from land for which a site licence is in force. Here the contaminated land provisions will not normally apply and action needed to deal with a pollution problem would be enforced through a "condition" attached to the site licence. However, Part IIA will apply if the harm or pollution is attributable to a cause other than a breach of the site licence, or the carrying on of an activity authorised by the licence.

Secondly, the local authority, acting under Part IIA, cannot serve a remediation notice in any case where the contamination results from an illegal deposit of

controlled waste. In these circumstances, both SEPA and the Council have powers to remove the waste and deal with the consequences of its having been present.

Lastly, remediation activities on contaminated land may themselves fall within the definitions of “waste disposal operations” or “waste recovery operations” and be subject to waste management licensing requirements.

### **Integrated Pollution Prevention and Control**

Under the Environmental Protection Act 1990, SEPA has the power to take action to remedy harm caused by a breach of IPPC controls and this could apply to cases of land contamination arising from such causes.

The Pollution Prevention and Control (Scotland) Regulations 2000 require the submission of reports characterising the condition of sites subject to PPC, to ensure that the site is left in a satisfactory state upon surrender or revocation of a permit. The system will prevent further land contamination.

### **Statutory Nuisance**

Following the introduction of the contaminated land regime, most land contamination issues will be removed from the scope of the statutory nuisance provisions contained within the Environmental Protection Act 1990. Any matter which would otherwise have been a statutory nuisance will no longer be treated as such, to the extent that it consists of, or is caused by, land “being in a contaminated state”. The definition of land which is “in a contaminated state”, and where the statutory nuisance regime is therefore excluded, covers all land where there are substances in, on, or under the land which are causing harm or where there is a possibility of harm being caused. However, it should be noted that the statutory nuisance regime will continue to apply to the effects of deposits of substances on land which give rise to such offence to human senses (such as odours) as to constitute a nuisance, since the exclusion of the statutory nuisance regime applies only to harm and the pollution of controlled waters.

### **Other regimes**

Other regimes which may have implications for land contamination, or which may overlap with Part IIA include food safety, health and safety, landfill tax and major accident hazards.

## **5.5.2 Information Gaps**

The ongoing implementation of the Strategy may highlight gaps in information and where these cannot be remedied timeously they will be addressed as part of the review process.

## **5.6 Assessment Methods and Prioritisation**

The assessment and prioritisation of potentially contaminated land will be undertaken in a phased programme consisting of two stages:

Stage 1.       Prioritisation

Stage 2.       Risk Assessment

### 5.6.1 Prioritisation

The Landmark database has indicated that there are approximately 1800 areas of possible land contamination within Renfrewshire. In order to ensure that the most pressing and real problems are addressed first a method of prioritisation will be implemented.

A prioritisation package is being purchased from an external environmental consultancy setting out a relative risk ranking system which will be implemented for the prioritisation of sites which may be contaminated. The method is based on an auditable trail and will take account of source, pathway and receptor in association with contaminated land guidance and regulation. It is proposed that there will be four phases in this stage:

- Phase 1        Site Identification
- Phase 2        Initial Prioritisation
- Phase 3        Internal Consultation
- Phase 4        External Consultation.

Completion of these phases will result in a database of relative risk scored sites. The prioritisation process will provide a defensible method for the prioritisation of land which may be contaminated and will be consistent with the rational, ordered and efficient approach advocated by the legislation.

The above is only a brief outline of the probable final prioritisation package and full details of the methodology will become available once the package is purchased.

### 5.6.2 Risk Assessment.

Sites which are brought forward to this stage will be subject to a full risk assessment. For this, relevant data sets will be used to assess the risk to each of the various types of receptors. Whilst there is no single look up table the following data sources will be evaluated and used as is appropriate.

#### **Human Health**

Contaminated Land Exposure Assessment (CLEA.)- These guidelines are due for publication from the DETR. However until these guidelines are available the Council will evaluate all information against current guidelines including those published by the Interdepartmental Committee on Redevelopment of Contaminated Land (ICRCL).

ICRCL 59/83 (2nd Edition, July 1987) - "Guidance on the Assessment and Redevelopment of Contaminated Land" - gives the most widely used set of trigger and action levels for a range of contaminants. This is likely to remain a key reference document even with the introduction of CLEA since this guideline initially will be for ten main contaminants and since they only relate to human receptors.

Risk assessments may also be required for substances not covered by ICRCL or CLEA guidelines. In these cases, reference may be made to occupational exposure levels issued by the Health and Safety Executive in the form of Occupational Exposure Standards (OES) or Maximum Exposure Limits (MEL's) or other authoritative sources of information.

#### **Controlled Waters**

Drinking Water Standards - The Water Supply (Water Quality) (Scotland) Regulations 1990;  
The Private Water Supplies (Scotland) Regulations 1992;  
The Surface Waters (Abstraction for Drinking Water) (Scotland) Regulations 1996.

Bathing Water Standards - The Bathing Waters (Classification) (Scotland) Regulations 1991.

CLR No 1: Framework for Assessing the Impact of Contaminated Land on Groundwater and Surface Water, available from DETR publications.

Environment Agency R&D Publication 20: Methodology for the Derivation of Remedial Targets for Soil and Groundwater to Protect Water Resources, available from WRc publications.

ConSim model, available from Golders Associates

Scotland and Northern Ireland Forum for Environmental Research (SNIFFER): Ecological Risk Assessment Manual for Chemicals in the Aquatic Environment, available from FWR, Marlow.

Advice will be sought from the SEPA on risk assessment if controlled waters are thought to be the receptor in a particular pollutant linkage. SEPA will undertake to keep local authorities aware of any contaminated land sites which are thought to be resulting in pollution of controlled waters or of pollution incidents which cannot be traced back to a specific site. However, it should be recognised that SEPA's surface water quality monitoring program is unlikely to cover many of the potential contaminants and is limited in geographical coverage.

Information from consultation undertaken at this stage with the various interested parties previously mentioned in this document, along with risk assessment on site contaminants, and hydrological and geological conditions will result in the further categorisation of the sites.

Those with the highest degree of risk will be progressed to a further investigative phase consisting of site investigation and if identified and designated as being contaminated land, to a final phase of remediation. Sites with a lower degree of risk will be addressed after those of a higher risk.

## **6. General Liaison and Communication Strategies**

### **6.1 Consultees**

Contacts have already been established with officers of all statutory consultees (see Appendix B.) and each organisation has been requested for information in relation to contaminated land and its remit within Renfrewshire.

Liaison with SEPA has progressed both formally in writing and informally through initial discussions as it is recognised that a close working relationship is vital to the implementation of the new statutory regime.

SEPA in conjunction with all Scottish Local Authorities has developed a document "Framework for Local Authority-SEPA Liaison under Part IIA of the Environmental Protection Act 1990." The procedures laid down in this document will ensure efficient liaison and consultation between this Council and SEPA. (See Appendix D.)

Other interested parties e.g. land owners, occupiers, adjoining Councils, Renfrewshire Local History Forum and Paisley District Chamber of Commerce have also been contacted in order to establish contact persons.

To assist in contacting the wider community it is proposed that use be made of the Council web site in the communication of information concerning contaminated land.

## **7. Programme for Inspection**

Inspection of land will be a progressive activity and as previously indicated prioritisation procedures will be implemented which are risk based and will focus on the considerations of particular potential pollutant linkages or sensitive exposure scenarios or areas where there may be relevant problems. Timescales for the evaluation of land, the assessment of land which has been identified as being of high and medium priority and the collation and review of any evidence of actual harm or water pollution identified as being high priority will be as set out in Section 3.2 of this document. Account will be taken of activities and also information gathered from consultees

### **7.1 Arrangements for Carrying Out Detailed Inspection.**

Land which has been identified in the prioritisation and risk assessment stages (Stages 1 and 2) as having a possible pollution linkage will have a detailed inspection undertaken in order to obtain sufficient information to identify the actual presence of one or more contaminants, receptors and pathways.

Liaison will be established with the appropriate person(s) and also the statutory consultees in order to collate and assess any documentary information on a specific area of land.

The detailed inspection may include a site walk over and initially in some cases limited sampling or if deemed necessary a full intrusive site investigation.

If at any stage during the detailed inspection process and based on information obtained it becomes apparent that there is no longer a reasonable possibility that a particular pollutant linkage exists, the Council will cease from undertaking any further inspection of the land for that pollutant linkage.

Land which has been identified as being contaminated and falls within the "special site" description prescribed in the Contaminated Land (Scotland) Regulations 2000 will be designated as a special site for which SEPA is the enforcing authority.

The Council are required to seek advice from SEPA when making a decision on whether contaminated land should be designated as a special site. Close liaison will be required over any possible special sites to ensure that any disagreements between SEPA and the Council and also any subsequent referrals to Scottish Ministers are kept to a minimum. An outline of this liaison with SEPA as regards special sites is contained in Appendix D.

The process of the undertaking of visual and intrusive site investigation, sampling procedures, appointments of consultants and analytical procedures at this date has still to be decided.

### **7.2 Powers of Entry**

Under Section 108 of the Environment Act 1995, the Council has been granted the power to authorise a person to exercise specific powers of entry. Any detailed inspection of land carried out through use of this power by the Council will be an "inspection using statutory powers of entry".

Detailed inspection may include any or all of the following;

- (a) the collation and assessment of documentary information, or other information from other bodies;

- (b) a visit to the particular area for the purposes of visual inspection and, in some cases, limited sampling (for example of surface deposits); or
- (c) intrusive investigation of the land (for example by exploratory excavations).

At least seven days notice will be given of proposed entry onto any premises, unless there is an immediate risk to human health or the environment. Where a site is likely to be a special site, the Council will consider authorising a SEPA official to exercise the above powers on behalf of the Council. However before using the powers of entry, informal contact will initially be made.

### **7.3. Risk Communication**

People's perceptions of the risks involved in contaminated land may well differ to that of an expert assessment. In communicating with the public and various stakeholders (groups) the Council will address these perceptions and also the wider issues posed by contaminated land, which may be different for various interested parties. Some people for instance are more likely to be concerned if vulnerable sections of the public, such as young children are exposed to contamination from land. Others depending on their level of familiarity and knowledge of contamination may perceive certain contaminants as more alarming than others.

Any risk communication concerning contaminated land will therefore need to cover:

- Environmental impact to air, water and land
- Health considerations
- Economic impact
- Social impact
- Visual intrusiveness

The Council will also take into account the fact that peoples perceptions may be influenced by their personal values, life experience, culture and background.

#### **7.3.1 When To Communicate**

The Council will begin the communication process as early as possible. Communication is a two way process and the earlier the public is brought into the dialogue the better. Early communication will help to build trust and understanding and allow people to express their own concerns whilst giving the Council the opportunity to explain the process and technical aspects of risk assessment and management.

Communicating too late will serve only to alienate people making them feel that they cannot influence any outcome and encourage them to view the process merely as a public relations exercise.

Controlling debate at an early stage particularly when issues may be debated in the media and among key groups will greatly enhance the Council's credibility and ability. Communication with all the people concerned should continue on a regular basis along with the monitoring of the effectiveness of this process.

### 7.3.2 Who to Communicate With

The Council will identify the different people, groups (stakeholders) who maybe affected by contaminated land.

These may include:

Residents	Business People
Solicitors	Local Industry Representatives
School children	Trade associations
Teachers	Trade union representatives
Colleges	Community Action groups
Religious groups	Conservation groups
Religious leaders	Wildlife trusts
Local councillors	National NGOs
Caring professionals	MPs
Hospitals and clinics	MSPs
Scientists/ academics	Political organisations
Journalists	Financial institutions
Local groups and organisations	Developers
Landowners	

The Council has recognised that it will be beneficial to target and build communication links with representative selected stakeholders.

### 7.3.3 What to Communicate

Renfrewshire Council's objective will be to establish itself as open, accessible, listening and responsive. The risk assessment process will be explained to stakeholders so that they can raise any concerns that they may have whilst allowing them to feel they are a part of the process. The Council will not assume that the information is too difficult or too specialist for the person in the street.

Generally people are more concerned with the consequences of an event than the fact that the event might happen. Care will require to be taken when trying to explain and quantify the risks posed by contaminated land. In communicating the risks involved it should be remembered that contaminated land risks are imposed and involuntary and they should not be compared to voluntary risks, such as smoking or drugs. Additionally the difference between statutorily contaminated land and land contamination should be clearly explained.

Uncertainty will also need to be addressed. Care will be taken to talk about specific issues in their local context and to describe uncertainties based on the best case and worst case scenarios. Visual aids, graphs etc. may be used and if available raw material supplied for viewing.

Trust can also be built by identifying alternative independent sources which stakeholders may use to back up any information given out.

### 7.3.4 How to Communicate

Communication is most effective as a two way process which respects the views of all participants.

Renfrewshire Council will use different approaches depending on whether we are:

- (a) Gathering information and views from interested parties,

- (b) Considering informal ways of sharing information, or
- (c) Looking for a more formal means of generating public participation.

Communication takes time and has resource and budget implications. Use may be made of some or all of these methods:

Focus Groups  
Mailed surveys and questionnaires  
Telephone surveys  
Media monitoring  
PR  
Open Days  
Coffee mornings  
Briefings  
Public Information material  
Web site  
Hotline  
Workshops  
Advisory Committees

### **7.3.5 Summary**

Renfrewshire Council will manage the risk communication process to ensure that the following issues are addressed:

1. The need for two way communication.
2. The need to create openness, trust and understanding.
3. The need to show flexibility.
4. That the Council understand and are aware of the perceptions and concerns of stakeholders.

## **8. Review Mechanisms**

This strategy document outlines the general approach to be taken in inspecting land in Renfrewshire for contamination. This section will describe, instances when inspections will occur outside this general inspection framework, circumstances under which previous inspection decisions will be reviewed and measures taken to ensure the strategy remains effective and up-to-date.

### **8.1 Triggers for Undertaking Inspection**

Triggers for undertaking inspection outside the general inspection framework will include:

Unplanned events – e.g. if an incident such as a spillage has occurred.

Introduction of new receptors – e.g. if housing is to be built adjacent to a potentially contaminated site, designation of a new protected ecosystem, persistent trespass onto a site by unauthorised persons.

Supporting voluntary remediation – e.g. a potentially appropriate person wishing to undertake clean up before their land has been inspected by the local authority.

Identification of localised health effects which appear to relate to a particular area of land.

Responding to information from other statutory bodies, owners, occupiers, or other interested parties. Although these occurrences may trigger non-routine inspections, if this strategy is to prove effective, they must not be allowed to significantly interfere with the milestones laid down in the general inspection framework. It will be important to consider this issue in all strategy reviews.

### **8.2 Triggers for Reviewing Inspection Decisions**

In addition there may be occasions where the findings of previous inspection decisions should be reviewed. This might occur, for example, if there were:

- (a) Significant changes in legislation.
- (b) Establishment of significant case law or other precedent.
- (c) Revision of guideline values for exposure assessment.

It is important therefore that all decisions are made and recorded in a consistent manner that will allow efficient review.

### **8.3 Reviewing the Strategy**

Part IIA of the EPA 1990 requires that the Council inspect its area from “time to time” for the purpose of identifying land which may fall within the statutory definition of contaminated land. The frequency at which re-inspection takes place is not prescribed because appropriate inspection frequencies are likely to vary significantly depending on local circumstances. However it is proposed that two years after the adoption of the strategy a review will be undertaken to assess the effectiveness of the inspection process in meeting the legal requirements of the new regime.

## **9. Information Management**

### **9.1 General Principles**

A consequence of the preparation of this strategy and also subsequent detailed inspection of land within Renfrewshire for possible contamination will be the collecting of substantial quantities of information coming in various formats and from various sources. Arrangements and procedures for managing and storing all of this information will require to be implemented.

In particular cognisance will be taken of :

- (a) How information is stored.
- (b) How information is updated and maintained.
- (c) Internal responsibility for data management.
- (d) Location of Information.
- (e) Arrangements for Internal Access.
- (f) Arrangements for Public Access.

To assist in information management all collected data will be sub divided into:

- (a) Public Register Information
- (b) Inspection Information.

### **9.2 Public Register Information**

The Council is required under The Contaminated Land (Scotland) Regulations 2000 to maintain a public register containing full particulars of the following matters:

- (a) Identification Notices
- (b) Remediation Notices
- (c) Appeals against Remediation Notices
- (d) Remediation Declarations
- (e) Remediation Statements
- (f) Designation of Special Sites
- (h) Notification of Claimed Remediation
- (i) Convictions
- (j) Guidance issued under Section 78V(1) by SEPA
- (k) Other Environmental Controls where the Council is precluded from serving a Remediation Notice.

It should also be noted that the Regulations do not require the Council to provide any details of historic land use information.

### **9.3 Other Inspection Information**

This type of information refers to information collated by the Council during its inspection duties in relation to contaminated land issues and which is not classed as Public Register Information. This will include information details relating to such matters as, present and former land uses, harmful or polluting contaminants, the location of receptors and any other information of a type which will assist in the Council's inspection duties in order to identify contaminated land within Renfrewshire.

### **9.4 Data Storage**

Information gathered concerning contaminated land will be held in a data base which is accessed using the Council's Geographical Information System (GIS). The data base will be used to systematically collect all information and then assist in the assessment of any pollution linkages. Provision will be available within this system to facilitate the updating of stored records with new information. It is proposed to instal a report package within the GIS which will collate all stored information into a format which can be utilised for producing reports both for internal and external sources e.g. consultant/developer inquiries.

As outlined in Section 1.3 of this document internal responsibility for Data Management is the responsibility of the Senior Technical Officer within the Environmental Quality Team and information of a non confidential nature in relation to contaminated land issues will be made available to other departments within the Council.

### **9.5 Confidentiality of Information**

The policy of confidentiality in relation to complainants' identities is outlined in Section 5.4.2 of this document. Information supplied by third parties will have its status confirmed at the time of its provision in order to confirm whether they consider it to be commercially confidential or the subject of national security.

### **9.6 Arrangements for Giving Access to Information**

The Public Register will be kept at the Council's Environmental Services Department, South Building, Cotton Street, Paisley PA1 1BR. The register will be available at all reasonable times for free public inspection and the format of the register will be paper based initially with the intention that it be in electronic format in the longer term. Copies of the register will be available on request for which a reasonable charge will be made.

Before including any information on the register the Council will consider whether that information should be excluded on the basis that:

- (a) its inclusion would be against the interests of national security, or
- (b) the information is commercially confidential.

Inspection information not placed on the Public Register will be subject to the disclosure requirements of The Environmental Information Regulations 1992 and Environmental Information (Amendments) Regulations 1998.

## **9.7 Information Requests**

Requests for information will be dealt with, in accordance with the following:

- every request shall be responded to as soon as possible,
- no such request shall be responded to more than two months after it is made,
- where the response to such request contains a refusal to make information available, the refusal shall be in writing and specify the reasons for the refusal,

A request for information may be refused where that request is formulated in too general a manner. If the request is for information which contains personal data, access to that part of the information shall be governed by the Data Protection Act 1998.

## **9.8 Provision of Information to SEPA**

The Council will provide SEPA with information on contaminated land in accordance with the current legislative requirements. It will also adhere to the protocol as set out in the Local Authority/SEPA Liaison Framework Document, a copy of which is set out in Appendix D. Standard forms for exchange of information with SEPA have also been developed and will be utilised.

### **Glossary of Terms used in the Strategy Document**

**Appropriate person:** “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.”

**Brownfield Site:** a site which has been previously developed for a purpose other than for agricultural, forestry or open space and which is now vacant or disused.

**Building:** any structure or erection, and any part of a building including any part below ground, but not including plant or machinery comprised in a building.

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

**Contaminant:** a substance which is in, on or under the land and which has the potential to cause harm or to cause pollution of controlled waters.

**Contaminated land:** defined as “any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that - (a) significant harm is being caused or there is a significant possibility of such harm being caused, or; (b) pollution of controlled waters is being, or is likely to be, caused.”

**Controlled waters:** defined in section 78A(9) by reference to section 30A of the Control of Pollution Act 1974; this embraces territorial and coastal waters, inland fresh waters, and ground waters.

**Current use:** any use which is currently being made, or is likely to be made, of the land and which is consistent with any existing planning permission (or is otherwise lawful under town and country planning legislation). This definition is subject to the following qualifications:

- (a) the current use should be taken to include any temporary use, permitted under town and country planning legislation, to which the land is, or is likely to be, put from time to time;
- (b) the current use includes future uses or developments which do not require a new, or amended, grant of planning permission;
- (c) the current use should, nevertheless, be taken to include any likely informal recreational use of the land, whether authorised by the owners or occupiers or not, (for example, children playing on the land); however, in assessing the likelihood of any such informal use, the local authority should give due attention to measures taken to prevent or restrict access to the land; and
- (d) in the case of agricultural land, however, the current agricultural use should not be taken to extend beyond the growing or rearing of the crops or animals which are habitually grown or reared on the land.

**Enforcing authority:**

- (a) in relation to a special site, SEPA;
- (b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated.

**Harm:** defined as: “harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property.”

**Inspection using statutory powers of entry:** any detailed inspection of land carried out through use of powers of entry given to an enforcing authority by section 108 of the Environment Act 1995.

**Intrusive investigation:** an investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land, limited sampling or assessment of documentary information.

**Local authority:** defined in section 78A(9) as meaning any Scottish Council.

**Local Agenda 21:** a strategy produced by Renfrewshire Council outlining a framework of action to implement various processes at a local level, which will allow the Council to contribute to more sustainable development.

**Orphan linkage:** a significant pollutant linkage for which no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.

**Owner:** defined 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.”

**Part IIA:** Part IIA of the Environmental Protection Act 1990.

**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:** a contaminant which forms part of a pollutant linkage.

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

**Pollution of controlled waters:** defined as: “the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.”

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

**Ramsar Site;** a site designated as a wetland of international importance under the 1971 Ramsar Convention.

**Receptor:** either:

- (a) a living organism, a group of living organisms, an ecological system or a piece of property which (i) is in a category listed in Appendix C of this document as a type of receptor, and (ii) is being, or could be, harmed, by a contaminant; or
- (b) controlled waters which are being, or could be, polluted by a contaminant.

**Remediation:** defined as

“(a) the doing of anything for the purpose of assessing the condition of -  
(i) the contaminated land in question;  
(ii) any controlled waters 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 waters for the purpose -
  - (i) of preventing or minimising, or remedying or mitigating the effects of, any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land; or
  - (ii) of restoring the land or waters to their 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 waters.”

**Remediation declaration:** 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 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 as 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.

**Risk:** the combination of

- (a) the probability, or frequency, of occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm); and
- (b) the magnitude (including the seriousness) of the consequences.

**SACS:** Special Areas of Conservation.

**SEPA:** the Scottish Environment Protection Agency.

**Site of Special Scientific Interest (SSSI):** a site designated by Scottish Natural Heritage under the Wildlife and Countryside Act 1981 as being of national importance for biological or geological interest, and which requires protection from damage or deterioration.

**Significant harm:** 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:** the 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 Chapter A.

**Special Protection Area (SPA):** site designated under the Birds Directive (79/409/EEC) (Scottish Office Circular No 6/1995) as being an internationally important habitat for birds requiring habitat protection.

**Special site:** defined 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 SEPA, rather than the Council, becomes the enforcing authority for the land.

**Substance:** defined as:

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

**Statutory Consultees**

- (1) Scottish Environment Protection Agency
- (2) Scottish Natural Heritage
- (3) Scottish Executive
- (4) Historic Scotland
- (5) Scottish Enterprise National
- (6) Scottish Enterprise Renfrewshire
- (7) Food Standards Agency

**List Of Receptors-Summary.**

1. Human beings.
2. Ecological systems or living organisms forming part of a system within certain protected locations, being:-
  - Sites of Special Scientific Interest (SSSIs);
  - National Nature Reserves;
  - Marine Nature Reserves;
  - Nature Reserves;
  - Special Areas of Conservation (SACs);
  - Special Protection Areas (SPAs);
  - Areas of special protection for birds;
  - Any habitat or site afforded policy protection (i.e. Candidate SACs, potential SPAs and listed Ramsar sites);
  - Any candidate National Park to be designated under the proposed National Parks Act.
3. Property in the form of
  - Crops including timber;
  - Livestock;
  - Homegrown produce;
  - Owned or domesticated animals;
  - Wild animals subject to shooting or fishing rights;
4. Property in the form of buildings
5. Controlled Waters which are being, or could be, polluted by a contaminant.

**FRAMEWORK FOR  
LOCAL AUTHORITY - SEPA LIAISON UNDER  
PART IIA OF THE ENVIRONMENTAL PROTECTION ACT 1990  
(CONTAMINATED LAND)**

**1. INTRODUCTION**

**Background**

- 1.1 In October and November 1999, the Scottish Environment Protection Agency (SEPA) held a series of liaison meetings with local authorities throughout Scotland in order to understand what local authorities and SEPA expect from one another upon implementation of the contaminated land provisions of Part IIA of the Environmental Protection Act 1990. A practical mechanism for local authority and SEPA interaction under Part IIA was discussed. At the meetings, it was recognised that both SEPA and local authorities must accept their respective responsibilities under Part IIA and work together to resolve areas where the hierarchy of responsibility is poorly defined.
- 1.2 It was agreed that a framework document would be useful for both parties in the effective and efficient implementation of Part IIA. This framework document has been prepared by SEPA, incorporating comments from local authorities, and will remain as a working document to guide interaction. It will be reviewed and amended in conjunction with local authorities as experience is gained of working together under Part IIA.

**Scope and Purpose**

- 1.3 The purpose of this document is to provide a broad framework for liaison between SEPA and local authorities in carrying out their duties under Part IIA of the Environmental Protection Act 1990 (the Act). It is aimed at facilitating the main processes preceding formal identification and designation. The framework will streamline liaison without introducing administrative burdens and inflexibility or eliminating informal dialogue.
- 1.4 The framework only applies to those procedural aspects which require liaison between local authorities and SEPA under Part IIA, and hence only covers a small part of the provisions. The process of formal notification is not currently addressed by the framework, although it is recognised that local authorities may wish to adopt a standardised approach.

**Liaison under Part IIA**

- 1.5 Effective interaction between local authorities and SEPA is crucial in ensuring the successful implementation of Part IIA. The Act, Regulations and Statutory Guidance place various duties, powers and other obligations on local authorities and SEPA, as highlighted below in the order in which interaction is likely to occur:
- the obligation for local authorities to consult with SEPA when developing their strategic approaches to inspection.
  - the obligation for local authorities to consider checking whether SEPA has information relevant to the identification of land as contaminated.

- the obligation for local authorities to have regard to advice from SEPA in relation to determination of pollution of controlled waters.
  - the duty of local authorities to seek advice from SEPA in relation to the designation of potential special sites.
  - the powers of SEPA to notify local authorities of contaminated land requiring to be designated as a special site.
  - the duty of local authorities to notify SEPA of land identified as contaminated and land designated as a special site.
  - the powers of SEPA to provide site specific advice on contaminated land to local authorities where deemed necessary.
  - the powers of SEPA to obtain information from local authorities in preparing the state of contaminated land report.
- 1.6 The manner in which information and advice is exchanged has major implications for the workload of both local authorities and SEPA. Reducing ad hoc inquiries will maximise use of limited resources and will enable a more focused and consistent response to be made. This document puts structure to the process.

## **2. IDENTIFICATION OF CONTAMINATED LAND**

### **Strategy Development**

- 2.1 Local authorities are required by the Act to inspect their areas to identify contaminated land. The Statutory Guidance indicates that local authorities shall publish a strategy detailing how they will go about inspecting their area to identify contaminated land and send a copy of this to SEPA for information. At least one copy should be sent to the Contaminated Land Specialist (Dr Irene Anders) at SEPA. Whilst SEPA has no auditing role in the development of strategies, comment will be provided on draft strategies if a request is made to the Contaminated Land Specialist at SEPA.
- 2.2 The Statutory Guidance indicates that local authorities should consult with various organisations, including SEPA, in preparing their strategies. SEPA will be pleased to engage in dialogue with local authorities from an early stage. In particular, it is recognised that local authorities may wish to use information held by SEPA to assist them in the identification of contaminated land. The nature of information held by SEPA, the format in which it is held and its accessibility varies across SEPA for historical reasons. A broad outline of the types of information is available from each SEPA Region.
- 2.3 To facilitate the exchange of information, it is proposed that local authorities should first consider and document their information requirements. Local authorities may then wish to meet with the Contaminated Land Specialist at SEPA, who will liaise with other SEPA staff as appropriate. Before meeting, SEPA will review what general information it has which may be of use to local authorities, and the format in which this information is held. The purpose of any initial meeting is likely to be to: outline available data held by SEPA; highlight relevant information such as local action plans and stretches of controlled waters which are suspected to be affected by contaminated land; and to provide any other information known to SEPA or its individual officers, highlighting sites or particular areas which may be potentially contaminated.

### **Strategy Implementation**

- 2.4 In moving forward with the more formal identification of contaminated land, local authorities are likely to consider individual sites in more detail and to consider the sources, pathways and receptors present at the sites. In

considering probable pollutant linkages, local authorities may wish to make site-specific written requests for information to the Contaminated Land Specialist at SEPA, who will respond as appropriate. Typical information would be water quality data and knowledge any incidents, remediation activity or breach of licence conditions at the site. COSLA have drafted a standard form for requesting site-specific information and it would be helpful if this were used. Where it is thought that the contamination is being addressed through other legislative provisions for which SEPA has responsibility, SEPA would request that local authorities seek information before identifying land as contaminated.

### **3. NOTIFICATION OF CONTAMINATED LAND**

- 3.1 Under 78B of the Act, local authorities shall give notice in writing to SEPA of all land which is identified as statutorily contaminated. All notifications should be sent to **Dr Irene Anders, Contaminated Land Specialist, SEPA, 5 Redwood Crescent, Peel Park, East Kilbride, G74 5PP.**
- 3.2 The Statutory Guidance indicates that local authorities shall prepare a written record of any determination that a particular area of land is contaminated. In order for SEPA to gain a better understanding of the potential issues at contaminated land sites, and to enable site specific advice to be provided where necessary, it would be helpful if SEPA were supplied with a copy of the written record of determination. Forms have been drafted by COSLA to assist with recording information on land identified as contaminated.

### **4. POLLUTION OF CONTROLLED WATERS**

- 4.1 The Statutory Guidance indicates that local authorities should adopt an approach consistent with that adopted by SEPA in making a determination which relates to the pollution of controlled waters. SEPA will make available to local authorities for information purposes, its interim guidance to SEPA staff on SEPA's approach to considering pollution of controlled waters arising from contaminated land, once this has been disseminated within SEPA.
- 4.2 It is anticipated that local authorities will use established methods, in conjunction with information relating to water quality, water resources, contaminant mobility, and hydrogeological and geological conditions, to assess whether contaminants are entering or are likely to enter controlled waters. In some circumstances, it may be necessary to adapt an existing method so that it is appropriate to the site under consideration. Methods in use include:
  - CLR No 1: Framework for assessing the impact of Contaminated Land on groundwater and surface water, available from DETR publications.
  - Environment Agency R&D Publication 20: Methodology for the derivation of remedial targets for soil and groundwater to protect water resources, available from WRc publications.
  - ConSim model, available from Golders Associates.
- 4.3 It will obviously assist the process of determination if SEPA provides available water quality information. This will be done at two levels: general information supplied at the strategy development stage and site-specific information supplied at the strategy implementation stage. SEPA will undertake to make local authorities aware of any contaminated land sites which are thought to be resulting in pollution of controlled waters or of pollution incidents which cannot be traced back to a specific site. However, it should be recognised that

SEPA's surface water quality monitoring programme is unlikely to cover many of the potential contaminants and that it is limited in geographical coverage.

- 4.4 The Statutory Guidance also indicates that local authorities should consult with SEPA when determining whether a site is contaminated on the basis of pollution of controlled waters. It is proposed that a written consultation request be submitted to the Contaminated Land Specialist at SEPA once a local authority has identified a probable source, pathway and receptor, and established whether contaminants are entering, or are likely to enter water. SEPA will provide advice and assist with interpretation as appropriate and where resources permit. The advice provided by SEPA will vary as necessary on a site by site basis.

## **5. SPECIAL SITES**

- 5.1 Local authorities are required by the Act to seek advice from SEPA when making a decision on whether land identified as contaminated land should be designated as a special site. Close liaison over potential special sites will be necessary to ensure that disagreement between SEPA and local authorities, and referrals to Scottish Ministers, are minimised. SEPA would encourage dialogue at all stages in the process of designating a special site, to reduce the possibility of referral to a minimum. An outline of the proposed process is highlighted and discussed below.
- 5.2 As soon as a local authority considers that it may have identified contaminated land which may be a potential special site (that is once the site has been considered in detail, actual and probable pollutant linkages have been identified and the site matches one of the descriptions in Regulation 2), it is suggested that a written request is made to the Contaminated Land Specialist at SEPA for advice and for all relevant information held to be made available. Upon receipt of the response from SEPA and on the basis of other information received, the local authority may make a designation. Alternatively, there may be insufficient information to determine whether the site is contaminated or whether it represents a special site as defined in the Regulations.
- 5.3 The local authority may then consider undertaking a site visit and/or contacting the appropriate person to assess whether further information will be forthcoming. Where appropriate, SEPA would like to be involved in these discussions. Should a local authority wish a SEPA officer to be present during a site visit, then a written request should be made to the Contaminated Land Specialist at SEPA. Each request will be considered by SEPA on a site by site basis. However, SEPA will seek to accompany local authority officers on a site visit for certain types of site e.g. at an IPC site where SEPA has an existing role.
- 5.4 Where a local authority is considering undertaking an intrusive site investigation, the Contaminated Land Specialist at SEPA would like to be involved in discussions where SEPA involvement is appropriate.
- 5.5 Where a local authority is considering designating a special site, discussions should be held with the Contaminated Land Specialist at SEPA before the local authority makes the formal designation.
- 5.6 SEPA has powers under 78C(4) to give notice to a local authority of land, which has already been identified as statutorily contaminated land, which it considers should be designated as a special site. These powers will be used as appropriate. Where SEPA is aware of potential special sites, but the land

has yet to be identified as contaminated, it will informally bring these to the attention of the local authority.

- 5.7 Under 78C of the Act, local authorities should give notice in writing to SEPA of all land which is designated as a special site. **All notifications should be sent to Dr Irene Anders, Contaminated Land Specialist, SEPA, 5 Redwood Crescent, Peel Park, East Kilbride, G74 5PP.** SEPA will acknowledge receipt of the notice within 21 days and will confirm whether it agrees with the designation.
- 5.8 The Statutory Guidance indicates that local authorities shall prepare a written record of any determination that a particular area of land is contaminated. In order to assist SEPA in deciding whether it agrees with the special site designation, a copy of the written record of determination should be submitted with the written notification. Forms have been drafted by COSLA to assist with recording information on land identified as contaminated and designated as a special site.

## **6. SITE SPECIFIC ADVICE ON CONTAMINATED LAND**

6.1 SEPA is provided with powers under the Act to provide site-specific guidance to any local authority exercising its responsibilities in relation to any particular contaminated land. SEPA will provide site-specific advice where it is able and where specific circumstances warrant it. The information accompanying a notice of land identified as contaminated will play a central part in determining when it may be appropriate to issue advice. Types of advice which may be provided by SEPA could include:

- advice on licences in force at the site;
- advice on the licensing of remediation activities; or
- advice where remediation may impact on media which SEPA is responsible for protecting.

In addition, SEPA will seek to make local authorities aware of other sites in Scotland which have been identified as contaminated on a similar basis.

- 6.2 SEPA does not anticipate that advice will be routinely provided on every site identified as contaminated. The underlying presumption will be that SEPA will assist where it is necessary and where it is able. As the requirement for site specific advice becomes more apparent, SEPA or other appropriate organisations may consider issuing written general guidance.
- 6.3 Whilst SEPA has powers to provide site specific advice, local authorities may also wish to seek advice from SEPA. Any request for site specific advice from SEPA should be made in writing to the Contaminated Land Specialist at SEPA. Requests for advice will be considered on a case by case basis.

## **7. INFORMATION EXCHANGE AND COMMUNICATION**

### **Information Exchange**

7.1 It is anticipated that information will be exchanged between local authorities and SEPA (and vice versa) on a paper basis, using forms drafted by COSLA where available and letters as appropriate. Some local authorities may wish to consider the possibility of electronic exchange of information with SEPA and should discuss this with the Contaminated Land Specialist at SEPA.

### **Public Register Information**

- 7.2 Local authorities are obliged to enter particulars such as remediation notices, declarations and statements received from SEPA onto the public register. SEPA will undertake to copy such particulars to local authorities within 10 days of issue of a notice or declaration or receipt of a statement or similar. SEPA intends to standardise the remediation notices and declarations that it issues, so that all local authorities are provided with information in the same format to include in their public registers.
- 7.3 Where either SEPA or a local authority serves a remediation notice, the regulations require that a copy be sent to SEPA if the local authority is the enforcing authority or visa versa. Local authorities should send copies to **Dr Irene Anders, Contaminated Land Specialist, SEPA, 5 Redwood Crescent, Peel Park, East Kilbride, G74 5PP** and SEPA will send copies to the nominated local authority contact.

### **State of Contaminated Land Report**

- 7.4 SEPA is required by the Act to prepare and publish a report on the State of Contaminated Land in Scotland, based on information supplied by local authorities, and as directed by Scottish Ministers. The aims of the report are to:
- compile information on the general nature, extent and distribution of land identified as contaminated under Part IIA
  - assess the scale of the environmental impact of contaminated land and highlight where Part IIA is reducing this impact
  - summarise regulatory activity under Part IIA, in particular identification and remediation of contaminated land
  - assess the effectiveness of Part IIA in addressing contaminated land, in particular the impact of the reasonableness and hardship provisions on remediation
- 7.5 The information intended to be included in the report is provided in Annex 1. It is anticipated that the majority of this information will be extracted by SEPA from information contained in local authority inspection strategies, notifications made under 78B and 78C (including associated records of identification of land as contaminated/ designated as special sites) and remediation notices. However, it will not be possible to obtain information on remediation actions undertaken, either following issue of a notice or in connection with remediation statements or declarations, through such indirect means. At the end of each financial year, local authorities will be prompted to complete and return a standard form (electronic and/or hard copy). It is recognised that some local authorities may choose to provide this information by other means by sending copies of remediation statements, declarations and internal activity reports to SEPA.
- 7.6 SEPA will ensure that drafts of any state of contaminated land reports produced are circulated to local authorities for comment before they are published.

### **Communication from SEPA**

- 7.7 It is recognised that there need to be clear lines of communication between local authorities and SEPA. By the time the provisions of Part IIA come into force, SEPA will have made contact with every local authority to establish local authority contact points and to provide SEPA contact points. The contact list will be updated as necessary.

- 7.8 SEPA will endeavour, whenever possible and unless agreed otherwise, to respond to a request within 28 days. An indication of the date of reply will be provided if a response is not made at the same time that the request is acknowledged. Response time will be considered on a case by case basis as it will vary according to the workload associated with the inquiry and the urgency of the inquiry. This will be kept under review as a better understanding of the nature of requests and the work expected develops. In all situations, SEPA will endeavour to respond speedily to requests and advise of any potential delays as soon as practical.

## **8. REVIEW OF FRAMEWORK DOCUMENT**

- 8.1 The effectiveness of this framework will be reviewed in conjunction with local authorities within a year of the provisions of Part IIA coming into force and amended if appropriate. A mechanism for review is to be established, but it is anticipated that existing forums such as the local pollution liaison groups or a COSLA task group.

## **ANNEX 1: THE STATE OF CONTAMINATED LAND REPORT**

The report will focus on the three key stages of Part IIA: inspection strategies; the identification of contaminated land; and the remediation of contaminated. The emphasis on each stage will obviously vary for each report issued. Information will be presented as highlighted below for the individual stages.

### **Local Authority Inspection Strategies**

Information obtained from published inspection strategies, subject to finalisation of the inspection strategy guidance, reported for each local authority:

1. date of publication of the strategy
2. date of proposed review of strategy
3. brief description of local authority area
4. information to be collected and organisations to be contacted
5. management of information
6. basis of prioritising sites for detailed assessment
7. timescales for inspection of sites

### **Land Identified as Contaminated**

Information obtained from written records of determination, reported as total numbers and broken down per local authority:

1. date of notice
2. potential appropriate persons (causer, knowing permitter, current owner, previous owner, current occupier, previous occupier, trustee, other, none)
3. area of contaminated land
4. basis on which identified as contaminated (harm/pollution of controlled waters)
5. source of contamination (activity) NAPL,
6. form of contamination (dissipated in soil, discrete phase, present in tank etc.)
7. the contaminants present (chemical name)
8. pathway/s (soil, air, groundwater, surface water, food chain)
9. receptor/s (humans, ecosystems, property, controlled waters)
10. number of pollutant linkages identified
11. current site use (residential, residential with gardens, commercial/industrial, parks/playing fields/open spaces and allotment gardens)
12. previous site use (residential, residential with gardens, commercial/industrial, parks/playing fields/open spaces and allotment gardens)

In addition, sites designated as special sites will be highlighted, with reference to the regulation which resulted in them being a special site.

### **Site Remediation**

Information obtained from remediation notices, statements and declarations, reported as total numbers and broken down by enforcing authority:

1. date identified as contaminated
2. whether remediation notice, declaration or statement
3. whether replaces another remediation notice, declaration or statement
4. reason for issue (agreed remediation, EF uses powers, no remediation possible, remediation required).
5. date issued
6. whether urgent action taken (Y /N)
7. whether the notice/statement/declaration relates to an orphan site (Y /N)

8. whether assessment action taken (Y/ N)
9. remediation objective (reduce concentration, break pathway, remove receptor)
10. remedial treatment actions: brief details
11. whether monitoring action taken (Y/ N)
12. class of appropriate person (A /B/ none)
13. nature of appropriate person (causer, knowing permitter, current owner, previous owner, current occupier, previous occupier, trustee, other, none)
14. time period for remediation (0-1 year, 1- 5 years, 5 - 10 years, >10 years)
15. time after notice served/ statement issued, remediation commencing
16. receptor/s addressed by remediation notice/ statement
17. receptor/s excluded (human health, ecosystems, property, controlled waters)
18. basis on which remediation excluded (no liability, excessive cost, hardship, not serious)
19. number of pollutant linkages to be addressed
20. number of pollutant linkages to be excluded  
*Additional information is desirable in relation to remediation notices and statements to gain information on actual remediation undertaken:*
21. whether work was undertaken by enforcing authority and the reasons why it was undertaken (imminent danger, written agreement, notice not complied with, precluded remediation, cost not recoverable, no appropriate person, authority is appropriate person)
22. whether costs were recovered for work undertaken by an enforcing authority
23. whether appeals were made against remediation notices served and the outcome
24. whether notifications of claimed remediation were received
25. whether remedial activity was completed or the requirements were met

#### **Additional Information Supplied on a Voluntary Basis**

Where available, the following information will be broken down by local authority to provide an indication of the effort involved in identifying land as contaminated under Part IIA and the percentage of sites considered which were found to be statutorily contaminated.

1. number of sites considered which were found not to be statutorily contaminated i.e. no pollutant linkage
2. number of sites considered which required a desk study to be conducted for the purposes of Part IIA
3. number of sites considered which required a site visit to be carried out for the purposes of Part IIA
4. Number of sites considered which required an intrusive site investigation to be carried out for the purposes of Part IIA

**Paragraph B.9 of the Statutory Guidance**

In carrying out its inspection duties under Section 78B(1), the Council will take a strategic approach to the identification of contaminated land which merits detailed individual inspection.

The approach will:

- (a) be rational, ordered and efficient;
- (b) be proportionate to the seriousness of any actual or potential risk;
- (c) seek to ensure that the most pressing and serious problems are located first;
- (d) ensure that resources are concentrated on investigating areas where the authority is most likely to identify contaminated land;
- (e) ensure that the Council efficiently identifies requirements for the detailed inspection of particular areas of land.

**Paragraph B.10 of the Statutory Guidance**

In developing this strategic approach the Council will consider local circumstances. In particular it will consider the following key issues:

- (a) any available evidence that significant harm or pollution of controlled waters is actually being caused;
- (b) the extent to which any (as outlined in Appendix C ) is likely to be found in any of the different parts of the Council's area;
- (c) the extent to which any of those receptors is likely to be exposed to a contaminant, for example as a result of the use of the land or of the geological and hydrogeological features of the area;
- (d) the extent to which information on land contamination is already available;
- (e) the history, scale and nature of industrial or other activities which may have contaminated the land in different parts of its area;
- (f) the nature and timing of past redevelopment in different parts of its area;
- (g) the extent to which remedial action has already been taken by the Council or others to deal with land contamination problems or is likely to be taken as part of an impending redevelopment;
- (h) the extent to which other regulatory authorities are likely to be considering the possibility of harm being caused to particular receptors or the likelihood of any pollution of controlled waters being caused in particular parts of the Council's area.

**Paragraph B.15 of the Statutory Guidance**

Strategies are likely to vary between local authorities and between different parts of an authority's area, reflecting the different problems associated with land contamination in different areas.

The Council should include in its strategy:

- (a) a description of particular characteristics of its area and how that influences its approach;
- (b) the Council's particular aims, objectives and priorities;
- (c) appropriate Timescales for the inspection of different parts of its area; and
- (d) arrangements and procedures for:
  - (i) considering land for which it may itself have responsibilities by virtue of its current or former ownership or occupation,
  - (ii) obtaining and evaluating information on actual harm, or pollution of controlled waters,
  - (iii) identifying receptors, and assessing the possibility or likelihood that they are being, or could be, exposed to or affected by a contaminant,
  - (iv) obtaining and evaluating existing information on the possible presence of contaminants and their effects,
  - (v) liaison with, and responding to information from, other statutory bodies, including, in particular, SEPA, Scottish Natural Heritage and the Scottish Executive. (see paragraphs B.16 and B.17 below),
  - (vi) liaison with, and responding to information from, the owners or occupiers of land, and other relevant interested parties,
  - (vii) responding to information or complaints from members of the public, businesses and voluntary organisations,
  - (viii) planning and reviewing a programme for inspecting particular areas of land,
  - (ix) carrying out the detailed inspection of particular areas of land,
  - (x) reviewing and updating assumptions and information previously used to assess the need for detailed inspection of different areas, and managing new information, and
  - (xi) managing information obtained and held in the course of carrying out its inspection duties.