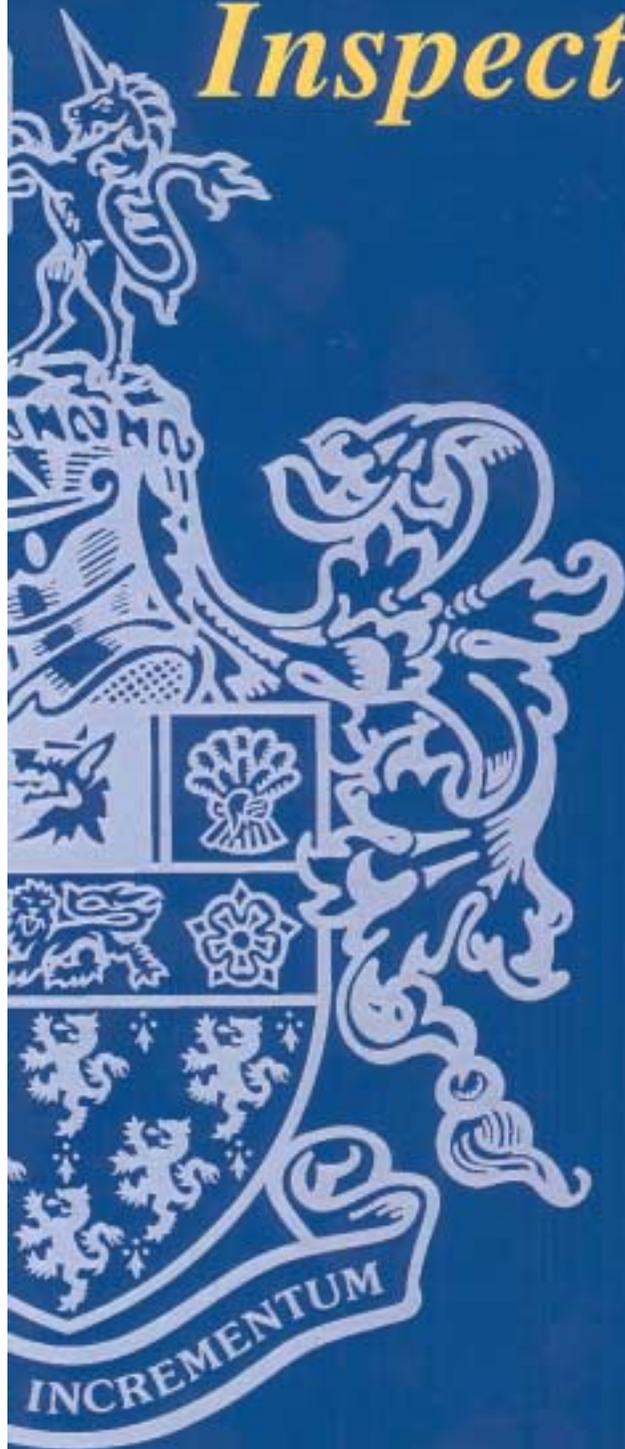


*Warrington Borough Council*  
***Contaminated Land  
Inspection Strategy***



**July 2001**



## CONTAMINATED LAND INSPECTION STRATEGY - CONTENTS

	<i>Page</i>
List of Tables	v
List of Figures	v
Chairman's Foreword	vi
Executive Summary	vii
<b>Chapter 1 – Introduction</b>	<b>1</b>
1.1 The National Perspective	1
1.2 Contaminated Land Legislation	1
<b>Chapter 2 – The Contaminated Land Regime</b>	<b>2</b>
2.1 Overview	2
2.2 Risk Assessment	2
2.3 The Need for a Strategic Approach	3
<b>Chapter 3 – Regulatory Policy</b>	<b>6</b>
3.1 Regulatory Role of Local Authority	6
3.2 Regulatory Role of Environment Agency	6
<b>Chapter 4 – Interaction with Other Regimes</b>	<b>7</b>
4.1 Regional Action	7
4.2 Interaction with other Regions	7
4.2.1 Planning and Development Control	7
4.2.2 Pollution Prevention and Control	8
4.2.3 Waste Management	8
4.2.4 Statutory Nuisance	8
4.2.5 Water Resources Act 1991	8
4.2.6 Radioactivity	9
4.2.7 Other Regimes	9
<b>Chapter 5 – The Local Perspective</b>	<b>10</b>
5.1 Warrington Borough Council Policy	10
5.2 Aims and Objectives of the Contaminated Land Inspection Strategy	10
5.3 Monitoring the Strategy	11
5.4 Resourcing the Strategy	11

	<b>Page</b>
<b>Chapter 6 – Internal Management and Responsibilities</b>	<b>12</b>
6.1 Strategy Development	<b>12</b>
6.2 Strategy Implementation	<b>12</b>
<b>Chapter 7 – Characteristics</b>	<b>14</b>
7.1 Background	<b>14</b>
7.2 Historical Content, Development and Potential Priorities	<b>15</b>
7.3 Land Usage	<b>16</b>
7.3.1 Land Ownership	<b>16</b>
7.3.2 Historic Land Usage	<b>16</b>
7.4 Natural Contamination	<b>17</b>
7.5 Receptor Identification	<b>17</b>
7.5.1 Agriculture	<b>17</b>
7.5.2 Protected Habitats	<b>17</b>
7.5.3 Geology	<b>19</b>
7.5.4 Groundwater Vulnerability	<b>20</b>
7.5.5 Surface Water	<b>23</b>
7.5.6 Ancient Monuments	<b>24</b>
7.6 Conclusions	<b>24</b>
<b>Chapter 8 – Information Collection</b>	<b>26</b>
8.1 Information Collection	<b>26</b>
<b>Chapter 9 – Risk Prioritisation Procedures</b>	<b>27</b>
9.1 Introduction	<b>27</b>
9.2 Methodology	<b>27</b>
9.2.1 Part I Assessment	<b>28</b>
9.2.2 Part II Assessment	<b>29</b>
9.2.3 Detailed Assessment	<b>29</b>
9.2.4 Controlled Waters	<b>31</b>

	<b>Page</b>
<b>Chapter 10 – Land Owned by the Authority</b>	<b>32</b>
10.1 Introduction	32
10.2 Current Land Holdings	32
10.3 Management Policy	32
<b>Chapter 11 – Liaison and Communication</b>	<b>34</b>
11.1 Introduction	34
11.2 Statutory Bodies	34
11.3 Environment Agency	35
11.4 North Cheshire Health	36
11.5 Appropriate Persons	36
11.6 The Community and Local Interest Groups	37
11.7 Risk Communication	38
<b>Chapter 12 – Information Management</b>	<b>39</b>
12.1 Introduction	39
12.2 Methods of Information Management	39
12.3 Access to Information	40
12.4 Information Received	41
12.5 Provision of Information to the Environment Agency	42
<b>Chapter 13 – Inspection</b>	<b>44</b>
13.1 Introduction	44
13.2 The Initial Assessment	44
13.3 Further Inspection	45
13.4 Determination	46
13.5 Transboundary Liaison between Authorities	47
<b>Chapter 14 – Remediation</b>	<b>48</b>
14.1 Introduction	48
14.2 Scheme Determination	48
14.3 Where Best Practicable Techniques Cannot be Reasonably Achieved	48
14.4 Post Remediation	48
14.5 Actual Harm and Urgent Remediation	49

	<b>Page</b>
<b>Chapter 15 – Cost Recovery Policy</b>	<b>52</b>
15.1 Introduction	<b>52</b>
15.2 The Determination	<b>52</b>
15.3 Conclusion	<b>53</b>
<b>Chapter 16 – Review Procedures</b>	<b>54</b>
16.1 Strategy Review	<b>54</b>
16.2 Site Specific Review Triggers	<b>54</b>
<b>References</b>	<b>56</b>
<b>Appendices</b>	
1 Categories of Significant Harm	<b>58</b>
2 Significant Possibility of Significant Harm	<b>59</b>
3 Council Objectives	<b>60</b>
4 Sources of Information	<b>67</b>
5 Glossary	<b>70</b>

## LIST OF TABLES

<b>TABLE</b>	<b>Page</b>
6.1 Internal Management Roles and Responsibilities	12
14.1 Hierarchy of Remediation	51

## LIST OF FIGURES

<b>Figure</b>	<b>Page</b>
2.1 Part II A Process Summary	5
7.1 Regional location of the Borough	14
7.2 Map of Warrington	15
7.3 Protected Habitats	18
7.4 Solid Geology	19
7.5 Source Protection Zones	22

## **Chairman's Foreword**

Land quality is an important issue for any well developed community, both in protecting public health and ensuring safe and effective regeneration of brownfield sites.

Warrington has worked for a number of years with Government at the forefront in dealing with contaminated land and the legacy of our industrial past.

There is much work to do, as described in the Strategy, but I am confident that this document is an important step forward in the regeneration of Warrington and the protection of the public and their environment.

Councillor John Joyce  
Chair of Environment Committee

## **Executive Summary**

In common with other industrial towns, Warrington has a legacy of land usage from its industrial development.

Under the new contaminated land provisions contained within Part IIA of the Environmental Protection Act 1990, which was introduced on 1 April 2000, each Local Authority has a duty to inspect its area to identify land that meets the statutory definition of contaminated land in a risk-based manner.

The legislation adopts a “suitable for use” approach in order to ensure that any remedial action is taken only where the land presents an unacceptable risk to human health or the environment assessed in the context of its current use and circumstances.

Prior to the introduction of the legislation there was no national strategic approach to the identification of contaminated land, although Warrington Borough Council maintained information on potential land contamination in order to promote land regeneration and to address any specific issues arising from historic land usage.

Councils are now required to formalise the approach to be taken to inspecting their areas and to describe and publish this within a written Strategy by July 2001.

The Strategy document fulfils the above requirement by setting out the manner in which Warrington Borough Council proposes to implement its inspection duties under the Part IIA regime. It describes the framework within which any statutory contaminated land will be identified in a rational, ordered and efficient manner, enabling resources to be concentrated on priority areas.

The management of land and its environmental regeneration will be a continuous process forming part of the Councils’ Vision to improve peoples’ quality of life and to take account of the effects on future generations.

The specific aims of the Strategy are:

- To identify any unacceptable risks to human health and the environment and take appropriate action on a priority basis.
- To encourage voluntary remediation where possible.
- To promote and assist in urban regeneration through addressing perceived or actual blight.
- To apportion liability in a fair and reasonable manner.
- To manage Council owned sites and ‘orphan sites’.
- To manage information and to produce suitable information outputs.
- To ensure the delivery of a best value service.

The Council has the primary regulatory role in the implementation of the Part IIA regime, but wherever possible the Council is committed to working in partnership with others. Effective liaison and communication is also recognised as being key to the successful implementation of the Strategy and the specific aim to promote voluntary remediation.

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## **1.0 INTRODUCTION**

### **1.1 The National Perspective**

#### **Policy Background**

The driver for environmental policy is the Strategy for Sustainable Development in the UK (Ref1). This is the principle whereby we seek to safeguard the environment for future generations. The contaminated land regime is an integral part of this process as it addresses the legacy of land contamination and its potential to impact on sustainable development.

The Government has, therefore, set clear policy objectives (Ref2):

- To identify and remove unacceptable risks to human health and the environment.
- To seek to bring damaged land back into beneficial use.
- To seek to ensure that cost burdens are proportionate, manageable and economically sustainable.

The new contaminated land regime is designed to meet these objectives by providing a tailored regulatory regime, which is focussed, transparent and consistent. It also places a strong emphasis of voluntary action.

The above objectives are underpinned by the suitable for use approach, which seeks to reconcile environmental, social and economic needs in relation to contaminated land. It introduces three risk based elements:

- Ensuring that land is suitable for its current use.
- Ensuring that land is made suitable for any new use.
- Limiting remediation to what is necessary to prevent unacceptable risks to human health or the environment.

The contaminated land regime has strong links with building control and planning. It can help to protect greenbelt areas by supporting the regeneration of areas of historic land usage. These principles are set out in "Planning for the Communities of the Future" (Ref3) and "Towards Urban Renaissance" (Ref4) documents.

### **1.2 Contaminated Land legislation**

Under the new contaminated land provisions contained in Part IIA of the Environmental Protection Act 1990, each local authority has to "cause its area to be inspected from time to time for the purpose of identifying contaminated land" (Section 78b). If contaminated land is identified, then the local authority must ensure that it is managed in an appropriate manner. The Secretary of State has issued Statutory Guidance to local authorities on the implementation of Part IIA in England. Part B of this Statutory Guidance requires local authorities to take a "strategic approach" to inspecting their areas and to describe and publish this in a written Strategy.

The Strategy sets out how Warrington Borough Council ("the Council") proposes to implement its duties under the Part IIA regime. It provides inspection arrangements and procedures, whilst seeking to provide a degree of transparency to our decision making process.

## **2.0 THE CONTAMINATED LAND REGIME**

### **2.1 Overview**

The DETR (now DEFRA) Circular 02/2000 provides the framework for delivering the objectives of the contaminated land regime. It sets out the approach to be taken in determining the degree of risk, the identification of any interested parties and level of remediation required. The implementation of the new regime will require the adoption of a strategic approach. The general process is summarised in a simplified form in figure 2.1. It clearly highlights the need to promote voluntary action before taking enforcement action and to maintain a transparent system through the maintenance of a public register. Points of data entry are shown.

The regime introduces some key elements that underpin the process:

### **2.2 Risk Assessment**

The need to protect the environment and to prioritise decisions requires the adoption of a risk based approach. The definition of contaminated land under Part IIA, therefore, reflects the need to consider risk.

Section 78A(2) of the Statutory Guidance 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”.

This definition is to be applied in accordance with other definitions in Part IIA and the Statutory Guidance.

It should be noted that pollution of controlled waters is currently a strict definition, it does not take into account the nature and degree of the pollution. This issue is addressed in paragraphs 6.3 to 6.32 of the statutory guidance. The Council will have regard to the actual circumstances when determining its prioritisation procedures, such that evidence of slight contamination will not be treated disproportionately.

#### The Principles of Risk Assessment

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

The Statutory Guidance introduces the concept of **contaminant-pathway-receptor** (often referred to as source-pathway-target) to reflect this definition. It also defines other terminology within the Strategy.

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

A receptor is either:

- A living organism, a group of living organisms, an ecological system or a piece of property which
  - is in a category listed in Table A as a type of receptor (see Appendix 1) and
  - is being, or could be, harmed, by a contaminant; or
- Controlled waters that are being, or could be, polluted by a contaminant.

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

- Is being exposed to, or affected by, a contaminant; or
- Could be exposed or affected.

The Statutory Guidance refers to a “**pollutant linkage**”, meaning the relationship between a contaminant, a pathway and a receptor, and a “pollutant” meaning the contaminant in a pollutant linkage.

Unless all three elements of a pollutant linkage are identified in respect of a piece of land, that land should not be identified as statutory contaminated land. However, in cases where contamination exists, other environmental legislation may come into force.

The local authority must also satisfy itself that both:

- (a) A pollutant linkage exists in respect of a piece of land; and
- (b) That pollutant linkage:
  - (i) is resulting in significant harm being caused to the receptor in the pollutant linkage (Appendix 1 details the categories of significant harm used in the Part IIA regime);
  - (ii) presents a significant possibility of significant harm being caused to that receptor (Appendix 2 defines what is considered to be the significant possibility of significant harm within the Part IIA regime);
  - (iii) is resulting in the pollution of the controlled waters which constitute the receptor; or
  - (iv) is likely to result in such pollution.

If these elements exist then a “**significant pollutant linkage**” is formed and the land can be determined as statutory contaminated land.

### 2.3 The Need for a Strategic Approach

The Statutory Guidance requires a local authority to take a strategic approach when compiling and implementing its inspection Strategy in order that it reflects the principles of risk assessment (section 78B(1)).

It must, therefore, be:

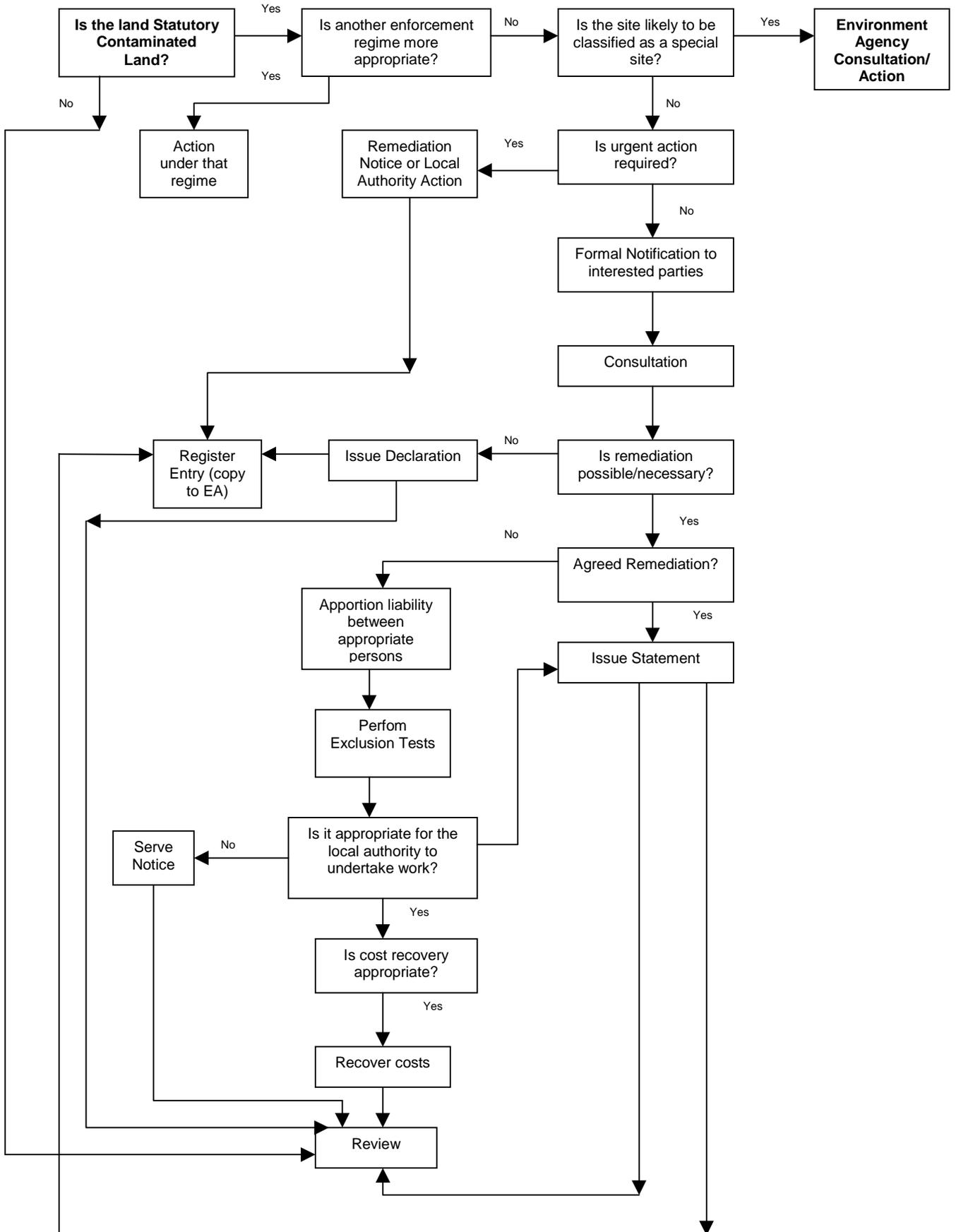
- (a) be rational, ordered and efficient;
- (b) proportionate to the seriousness of any actual or potential risk;
- (c) seek to ensure that the most pressing and serious problems are located first;
- (d) ensure that resources are concentrated on investigating areas where the local authority is most likely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

This means that local circumstances and information must be used when prioritising sites for assessment. The information that needs to be considered includes:

- (a) any available evidence that significant harm or pollution of controlled waters is actually being caused;
- (b) the extent to which any receptor is likely to be found in any of the different parts of the local authority's area;
- (c) the extent to which any of those receptors is likely to be exposed to a contaminant;
- (d) the extent to which information on contaminated land 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 local authority to deal with land contamination problems or is to be taken as part of an impending redevelopment; and
- (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 authority's area.

These elements are addressed within the body of the Strategy.

**Figure 2.1 PART IIA PROCESS SUMMARY**



### **3.0 REGULATORY POLICY**

#### **3.1 Regulatory Role of Local Authorities Under Part IIA.**

The primary regulatory role under Part IIA rests with Warrington Borough Council as the responsible authority. The role rests with the local authority given its existing functions under the statutory nuisance regime and development control.

In outline, the role of the Council under Part IIA will be:

- To cause its area to be inspected to identify contaminated land.
- To determine whether any particular site is contaminated land.
- To act as the enforcing authority for all contaminated land which is not designated as a “special site” (the Environment Agency will be the enforcing authority for “special sites”).

As the enforcing authority, Warrington Borough Council will have four main tasks:

- To establish whom should bear responsibility for the remediation of the land (the “appropriate person” or “persons”).
- To decide, after consultation, what remediation is required in any individual case and to ensure that such remediation takes place. Remediation can be secured through agreement with the appropriate person, by serving a remediation notice or in certain limited circumstances by carrying out the work themselves.
- To proportion liability and to recover the costs of the work if appropriate.
- To record prescribed information in a public register.

#### **3.2 Regulatory Role of the Environment Agency Under Part IIA**

Whilst the local authority has sole responsibility for determining the status of any contaminated land it will in reality need support from other key organisations who can provide expert advice or information. The Environment Agency, however, also has an important complementary regulatory role under the regime, specifically:

- The provision of information and advice, including site specific guidance to local authorities on matters of water pollution and other matters where it has specific expertise.
- Consultation on the Inspection Strategies of local authorities.
- Acting as the enforcing authority in the case of “special sites”.
- Preparation and compilation of the national State of Contaminated Land Report.

The Borough of Warrington lies within the boundary of the Environment Agency’s Northwest Region — South Area.

The Council will liaise closely with the Environment Agency.

## **4.0 INTERACTION WITH OTHER REGIMES**

### **4.1 Regional Action**

Government policy provides the framework for others to take action. Key organisations such as the Environment Agency, English Nature, English Partnerships, English Heritage, Department for Environment, Food & Rural Affairs (DEFRA) and the North West Regional Development Agency have all set clear policy objectives in relation to contaminated land. These focus on promoting and protecting the environment through sustainable action. These organisations can also help to provide expert advice on environmental protection, conservation and restoration, as well as urban regeneration.

### **4.2 Interaction with other Regimes**

In addition to the Part IIA regime, there are certain other regulatory regimes whose actions have in the past been used to address the issue of contaminated land. These will continue to interact with Part IIA. It is important that the Council liaises closely with the appropriate regulatory authority to determine the appropriate enforcement regime and to ensure effective communication.

#### **4.2.1 Planning and Development Control**

Contaminated land can be a material consideration within the development control process. The two regimes must, therefore, be complementary. The remediation of brownfield land under the planning process can avoid the creation of a pollutant linkage providing that it includes a suitable risk based assessment.

The date of any planning approval is also a key factor in determining the degree of confidence that can be derived from any remediation based upon the knowledge at that time. Sites can be prioritised on this basis.

The draft Unitary Development Plan (Ref5) provides the framework for planning policy within the Borough. Contaminated land can also be a material planning consideration when determining individual applications. Whilst Part IIA provides the legal framework for tackling historic land usage, the development control process will continue to ensure that developments are suitable for their intended use.

Guidance for dealing with contaminated land through the planning process is set out in *Planning Policy Guidance: Planning and Pollution Control (PPG 23) (1994)* (Ref6), and DOE Circular 11/95 *The Use of Conditions in Planning Permissions* (Ref7). Further planning guidance on contaminated land (revision of PPG23) is expected from the DEFRA, on the interaction of the two regimes. However, within the terms of the planning guidance, the term “contaminated land” does not refer to the definition used in the Part IIA regime.

The Building Regulations 1991 also specify specific measures to be taken during construction, to protect buildings and future occupants from the effects of contamination. Guidance on such requirements is given in *Approved Document Part C (Site Preparation and Resistance to Moisture)* (Ref8). This is particularly important when exposing the foundations or when landfill gas is an issue.

## **4.2.2 Integrated Pollution Control (IPC) and Pollution Prevention and Control (PPC)**

Currently, the IPC regime of authorising specific industrial processes is being progressively replaced by the recently introduced PPC legislation (Ref9). All authorised processes will be brought under the PPC legislation over the next seven years. Under the IPC and PPC regimes, the Environment Agency has power to remedy harm caused by land contamination under the appropriate regime. In such cases the local authority is precluded from serving a remediation notice. In any situation requiring the use of Part IIA powers the responsibility for enforcement will remain with the Environment Agency.

The new PPC regime also requires the operator of permitted installations to undertake a site condition survey prior to receiving a permit to operate. This effectively benchmarks the site in order that any requirement for additional site clean up can be directed towards the “polluter” upon surrender of the permit.

## **4.2.3 Waste Management Licensing**

The Environment Agency currently licences and manages waste management activities under Part II of the Environmental Protection Act 1990. This regime can potentially interact in three ways with the Part IIA regime:

- where significant harm or pollution of controlled waters occurs, due to a breach of a site licence under Part II;
- where the contamination results from an illegal deposit of waste; and
- where certain remediation processes on contaminated land may fall within the Part II licensing regime.

The waste management licensing system under the Environmental protection Act 1990 provides the appropriate regulatory system for addressing such problems unless the pollution is not directly attributable to a breach of site licence, or it is outside of the activity authorised by the licence.

## **4.2.4 Statutory Nuisance**

The Part IIA regime replaces the statutory nuisance provisions of The Environmental protection Act 1990 for dealing with nuisance that consists of, or is caused by, “land in a contaminated state”. That is 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, where land is causing offence to human senses, for example odours, the statutory nuisance regime will still apply.

## **4.2.5 Water Resources Act (WRA) 1991**

Under the Water Resources Act 1991, the Environment Agency retains powers to deal with harm to controlled waters being caused by contaminated land. Consequently, there is great potential for overlap between the two regimes. Therefore, the DEFRA in conjunction with the Environment Agency has provided guidance on how the two regimes will operate in tandem. The Council will in any case:

- consult the Environment Agency prior to determining that land is contaminated land in respect of pollution of controlled waters;
- take into account any comments the Environment Agency makes regarding remediation requirements on contaminated land potentially affecting controlled waters;
- formally identify contaminated land where the Environment Agency has identified actual or potential water pollution, caused by land contamination; and
- normally use Part IIA enforcement procedure for land identified as “contaminated land”, rather than the works notice system used by the Environment Agency under the Water Resources Act 1991.

#### **4.2.6 Radioactivity**

The Part IIA Regime currently precludes the Council from using these powers when harm or water pollution is attributable to the radioactivity of a substance (Ref2). The Council is awaiting the finalised document from the DEFRA which will outline the approach Councils should take when applying the Part IIA regime to this issue.

#### **4.2.7 Other Regimes**

Several other statutory regimes may also overlap with Part IIA, including:

- Food Safety (Part I of the Food and Environmental Protection Act 1985).
- Health & Safety (Health & Safety at Work Act 1974 & Construction, Design & Management Regulations 1994).
- Landfill Tax (Finance Act 1996).
- Major Accident Hazards (Control of Major Accident Hazards Regulations 1999 S.I. 1999/743).

In all cases, the Council will liaise with the appropriate regulatory authority where there is potential overlap of interests with the Part IIA regime.

## **5.0 THE LOCAL PERSPECTIVE**

### **5.1 Warrington Borough Council Policy**

It is important that the policies and objectives of the Council are consistent with those of our partners, whilst ensuring the delivery of Government policy at a local level.

The Council has, therefore, declared a vision for Warrington:

***A community where peoples' quality of life is improved now in a responsible way which takes account of the effects on future generations.***

Key policy areas, related to the protection of the environment, help to provide the framework for achieving this vision.

The **Agenda 21 Strategy** (Ref10) sets various strategic aims designed to improve public health and the environment, whilst promoting sustainable economic growth.

The **Best Value Performance Plan** (Ref11) sets out key pledges to the community and priority action areas. Urban regeneration, including the towns disadvantaged areas, is one priority area.

Social inclusion needs to be integrated within all action taken by the Council. The **Social Inclusion Strategy** (Ref12) is designed to ensure that the needs of the whole community are addressed.

The draft **Unitary Development Plan** (Ref5) provides the strategic vision for urban regeneration and development control. It is supported by the **Development Control Planning Charter** (Ref13) and the **Urban Potential Study** (Ref14) which assist in addressing priority areas.

The Environment Pledge (Ref11) includes a specific objective to minimise pollution of air, land and water. The contaminated land inspection strategy clearly helps to address this objective, whilst maintaining strong links across other related policy areas, such as the **Town Health Plan** (Ref15), which seeks to improve health and well being. The **Asset Management Plan** also helps us to ensure that the Council addresses any contaminated land issues associated with its own assets.

All of these policy areas are underpinned by more specific **Service Delivery Plans**.

A corporate Consultation Plan is also being developed, which will provide a best practice framework for local consultation. Specific points of consultation and liaison are addressed in Chapter 11.

### **5.2 Aims and Objectives of the Contaminated Land Strategy**

*The primary aim of the Strategy is to help in the delivery of the Council's vision. Specific strategic aims are:*

- To identify any unacceptable risks to human health and the environment and take appropriate action on a priority basis.
- To encourage voluntary remediation whether possible.

- To promote and assist in urban regeneration through addressing perceived or actual blight.
- To apportion liability in a fair and reasonable manner.
- To manage Council owned sites and 'orphan sites'.
- To manage information and to produce suitable information outputs.
- To ensure the delivery of a best value service.

The Council has historically taken a proactive stance on contaminated land management. This has created a strong information base from which to commence the risk assessment of land within the Borough. There is, therefore, no over-riding need to focus on specific geographical locations. The priority will instead focus on any evidence of actual harm and the risk posed. The apportionment of risk and subsequent priority is addressed in Chapter 9.

### **5.3 Monitoring the Strategy**

In the absence of any performance indicators (currently being developed by the DEFRA) the Strategy objectives will be used to monitor the progress of the Strategy. The objectives and their target dates are summarised in Appendix 3. The reviewing officer (see Table 6.1) will monitor and report on progress against the targets. Regular updates will be provided to the Council's Environment Committee and Strategic Planning Panel. Discussions at the regional working groups and the Best Value Review of Environmental Health and Trading Standards due this year, will allow the Strategy implementation to be benchmarked, although specific timescales will reflect the characteristics of the authority.

### **5.4 Resourcing the Strategy**

The Strategy objectives have been prescribed based upon current resources, which presently includes three officers working directly on contaminated land reporting to a principal officer. The team responds to a range of service requests and the performance against the Strategy objectives will, therefore, be dependent upon the nature of these requests and the number of priority sites identified under the strategic review.

Resources will be routinely targeted towards the priority sites identified in the review in order to safeguard human health and the environment. This may mean that other service requests may have to be reprioritised, In this event the customer will be informed about the reason for the delay and the amended service response target.

It is important to note that there will be a presumption against promoting any sites of lower priority unless the person can demonstrate an overriding reason. The Council will, however, endeavour to support land regeneration.

Training of staff by coaching, mentoring and externally sourced courses will be an essential element in delivering the Strategy, especially when assessing site specific risk assessments. Specialised training in these areas can be difficult to access locally and will require priority in training budgets.

The delivery of the Strategy will also have resource implications for other service areas within the Council given the requirement for cross-departmental working. Any specific resource pressures will be discussed with the relevant service provider in order to reach agreed response targets.

## **6.0 INTERNAL MANAGEMENT AND RESPONSIBILITIES**

### **6.1 Strategy Development**

The Council's status as a unitary authority has enabled a truly multi-functional approach to be taken. All service areas have been instrumental in providing the necessary information and expertise for inclusion within the final document.

The development of the Strategy has relied heavily on the feedback received on Warrington's Draft Contaminated Land Strategy, which was developed in 1998 as part of a pilot project with the DETR (now DEFRA).

### **6.2 Strategy Implementation**

If the Strategy is to be a true working document it is important that each service area understands its role and contributes actively by taking complementary action, which is consistent with the aims of the Strategy.

Whilst it is inappropriate to prescribe rigid roles and responsibilities the primary role of each key service area (in terms of the contaminated land regime) has, however, been summarised in Table 6.1.

**Table 6.1: Internal management roles and responsibilities**

<b><u>AREA</u></b>	<b><u>ROLE</u></b>	<b><u>CONTACT</u></b>
<b>Environmental Health</b>	<ul style="list-style-type: none"> <li>• Lead Strategy development.</li> <li>• Implement Strategy.</li> <li>• Initial contact for external organisations/Individuals.</li> <li>• Provide technical support.</li> <li>• External Contact point for:                             <ul style="list-style-type: none"> <li>- Public</li> <li>- Business</li> <li>- Environment Agency</li> <li>- North Cheshire Health</li> <li>- DEFRA.</li> </ul> </li> </ul>	Neil Morrey 01925 442652 (Lead Officer). Dave Watson 01925 442590 (Reviewing Officer). Phil Woods (Strategy Guardian).
<b>Legal</b>	<ul style="list-style-type: none"> <li>• To Provide advice on liability issues.</li> <li>• To assist in the identification of appropriate persons.</li> <li>• To assist in any Enforcement issues.</li> <li>• To provide advice on contractual issues.</li> </ul>	John Holmes
<b>Risk Management</b>	<ul style="list-style-type: none"> <li>• To provide advice on contractual issues.</li> <li>• To advice on any liability associated with Council actions.</li> </ul>	Ian Simon

<b>Communications</b>	<ul style="list-style-type: none"> <li>To provide advice on engaging the community on any site specific issues.</li> </ul>	Bob Williams
<b>Property Services</b>	<ul style="list-style-type: none"> <li>To provide information of Council owned sites.</li> <li>Asset Management.</li> <li>Consultation on land transfers.</li> </ul>	Murray Carr
<b>Engineers</b>	<ul style="list-style-type: none"> <li>To assist in the development of site investigation specifications.</li> <li>To provide advice on proposed remediation.</li> <li>To assist in the monitoring of remedial action.</li> </ul>	Jonathan Plant
<b>Emergency Planning</b>	<ul style="list-style-type: none"> <li>To advise on the need to implement the Emergency Plan.</li> <li>To oversee the Emergency Plan implementation.</li> </ul>	Thersea Whitfield
<b>Building Control</b>	<ul style="list-style-type: none"> <li>To ensure building protection</li> <li>To notify lead officer of any contaminated land found.</li> <li>Site Health and Safety</li> </ul>	Ray Parker
<b>Landscape Management</b>	<ul style="list-style-type: none"> <li>To ensure that restoration schemes are consistent with environmental management.</li> <li>To advise the lead officer on any site specific issues.</li> </ul>	Dave Stamp
<b>Planning</b>	<ul style="list-style-type: none"> <li>Development Control</li> <li>Liase with lead officer to ensure that development is suitable for use.</li> </ul>	Gwyn Clark – Development Control Ian Estall – Policy / UDP
<b>Finance</b>	<ul style="list-style-type: none"> <li>To provide advice on Supplementary Credit Approvals.</li> </ul>	Steve Guest

Whilst the delivery of the Strategy remains the responsibility of the whole Council, including elected members, it will be led by the Environmental Protection and Waste Section within the Environment and Regeneration Department. The manager of the section will be responsible for ensuring that it is delivered and he will report directly to senior management and members. Site specific issues will be addressed by setting up a project group and urgent action will be addressed using the procedures laid down in Chapter 14.

The Council must also take specific action to address land for which it maintains an interest. This is a specific aim of the Strategy and is dealt with accordingly in Chapter 10.

## **7.0 CHARACTERISTICS**

### **7.1 Background**

It is necessary to identify issues of local importance in order that they may be taken into account and used to direct the Strategy towards priority areas based on local circumstances. This initial review aims to describe the Borough in terms of its main characteristics and to identify any priorities to be addressed during the implementation of the Inspection Strategy.

Warrington Borough Council became a Unitary Authority on 1<sup>st</sup> April 1998 and is the most northerly of the eight local authority areas in Cheshire but no longer comes under Cheshire County Council for administration purposes. It has the largest population in Cheshire (approaching 190,000) and Warrington Town is the largest single urban area in the County. The total area of the Borough is 18,184 hectares.

The Borough of Warrington shares its boundaries with industrial and residential conurbations such as Wigan and Halton.

The regional location of the Borough is shown in Figure 7.1 below



Figure 7.1 Location of the Borough

The urban area is dissected by two waterways; the River Mersey, which passes close to the Town Centre, and the Manchester Ship Canal to the south. The course of the Mersey has been changed over time and parts of the former course have been diverted and infilled.

The town is well served by an extensive road network including three motorways, namely the M6, M56 and M62. The existence of such an extensive transport infrastructure has assisted in the rapid redevelopment of the town. Warrington has historically been, and continues to be, a major industrial and commercial centre.



prior to the introduction of Waste Management Legislation in the 1970's and as such were not subject to the level of regulation and control that would be expected today.

- iii) The large military presence and associated activities comprising three former RAF sites and one former naval depot. These activities were generally located in formerly sparsely populated areas and not limited to the town centre, contributing to the diverse and widespread industrial base within the town.

It is notable that as well as being diverse in terms of the range of activities undertaken, the spatial distribution of sites is also widespread across the Borough but predominantly within the area to the north of the Manchester Ship Canal.

## **7.3 Land Usage**

### **7.3.1 Land Ownership**

There are several significant land owners within the Borough, including:- Warrington Borough Council, the Commission for the New Towns, Railtrack, Manchester Ship Canal Company (Peel Holdings) and private landowners.

In April 1968, an area of thirty square miles around and including the town was designated as New Town. The proposed role for the New Town was to act an overspill area for Manchester and Liverpool. This heralded the commencement of a period of rapid "induced growth" which has culminated in a vast expansion in terms of both residential and commercial areas under the direction of the Commission for the New Towns (CNT). This rapid growth has led to the development of large areas of the town, including areas that were previously the subject of the potentially contaminative activities outlined above. It is notable that much of this development occurred in the 1970's and 1980's when the issue of contamination was not formally considered in the development process.

### **7.3.2 Historic Land Usage**

The decline in the traditional manufacturing base of the town and the change in the types of activities undertaken has resulted in the redevelopment of extensive areas of land which have previously been subject to potentially contaminative industrial or commercial usage. A significant amount of this land has since been redeveloped.

The key consideration, with regard to directing the Strategy, will, therefore, be the degree of confidence that can be attached to the redevelopment with regard to its historic land usage. For this reason any development undertaken prior to 1990 will be treated as a higher priority within the risk assessment process given that they are less likely to have benefited from a formalised risk assessment. The date will, therefore, be used to provide a mechanism for prioritising the assessment process.

The Environmental Protection and Waste Unit within the Environment and Regeneration Department of Warrington Borough Council currently maintains information on over 550 sites, which by the nature of the former activities carried out on them have the potential to be contaminated. This information will be used to look at any coincidence between redevelopment and the potentially contaminative use. It should be remembered that the definition of contaminated land relates to its broader sense and not to the statutory

definition. Details of the information and its application with respect to the implementation of the Strategy are discussed further within the Strategy document.

## **7.4 'Natural' Contamination**

With regard to other sources of anthropogenic contamination, as noted above Warrington is well served by an extensive road network including three motorways, namely the M6, M56 and M62. These major road systems may have resulted in lead deposition alongside their route. The potential impact of lead deposition from major roads has not been assessed to date although results of earlier surveys demonstrated that the deposition of lead from the air had reduced considerably in the 1990's.

The presence of natural contamination is not currently a consideration when recording potentially contaminated sites/areas; such information will need to be sourced from organisations like British Geological Survey (BGS), the British Library, and the Environment Agency.

With regard to risk associated with Radon, monitoring has been undertaken within the Borough by the National Radiological Protection Board as part of a national program. Results have shown that no Radon Affected Areas have been declared in any of the seventeen five kilometre squares of the Ordnance Survey grid which are wholly or partially within the jurisdiction of Warrington Borough Council. An Affected Area is one in which 1% or more of homes are estimated to have levels of Radon which exceed the Action Level.

## **7.5 Receptor Identification**

### **7.5.1 Agriculture**

A preliminary review of the DEFRA Provisional Agricultural Land Classification map, 1:250,000 scale (originally mapped at 1:63,360) indicates that the vast majority of sites on which we have information of potentially contaminated land coincide with land classified as being in urban use.

Consultation will be undertaken with organisations such as the Environmental Protection Division of DEFRA. This will be done in order to discuss any site specific issues and to address any specific concerns. Within the implementation of the Strategy our primary focus will relate to the assessment of risks to human health, we will however, in consultation with relevant organisations identify and prioritise risks to all receptor groups.

### **7.5.2 Protected Habitats**

Within the Borough three classifications of protected habitats are represented; Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs) and Sites of Importance for Nature Conservation (SINCs). The locations of SSSIs and SINCs are shown in Figure 7.3

There are 4 SSSIs in total, these are located at Risley Moss, Holcroft Moss, Thelwall Eyes and Rixton Clay Pits. There are a total of 40 SINC's and a further 2 SACs.

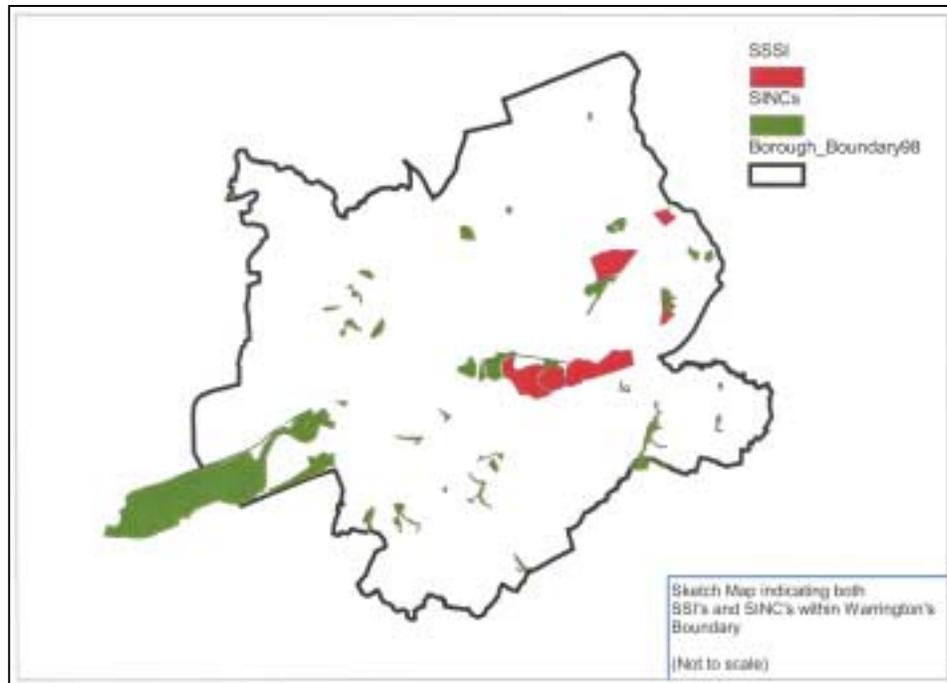


Figure 7.3 Protected habitats

A preliminary review of the locations of the above protected habitats has indicated that there is a reasonably high degree of coincidence between these areas and sites of potentially contaminated land.

Consultation will be undertaken with organisations such as English Nature, Cheshire Wildlife Trust, the Environment and Regeneration Department of Warrington Borough Council and other local/national conservation bodies in order to identify any specific concerns. Within the implementation of the Strategy primary focus will relate to the assessment of risks to human health, the Strategy will however, in consultation with relevant organisations identify and prioritise risks to all receptor groups. Any evidence of actual harm to these receptors will be a review trigger for promoting the importance of sites within the assessment process.

Sites of previous land use are often left largely undisturbed and natural vegetation establishment leads to a habitat succession from tall herb, to rank grassland and finally to scrub woodland. Each of these 'Urban Common' habitat has nature conservation value and the low levels of human disturbance benefit wildlife.

It is also recognised that any necessary investigation and/or remedial works should, where possible, take account of the nature conservation value of the site. Appropriate advice will therefore be sought from English Nature prior to any intrusive site assessment. The Council is aware that sites of past land use may support legally protected species such as great crested newts and water voles. The Council will therefore liaise closely with all interested parties when dealing with such sites

It should be noted that a number of sites are likely to have been assessed previously. The information obtained during these assessments will be reviewed at an early stage during the course of the implementation of the Inspection Strategy.

### 7.5.3 Geology (Simplified)

The Solid Geology of the Borough is presented in Figure 7.4:

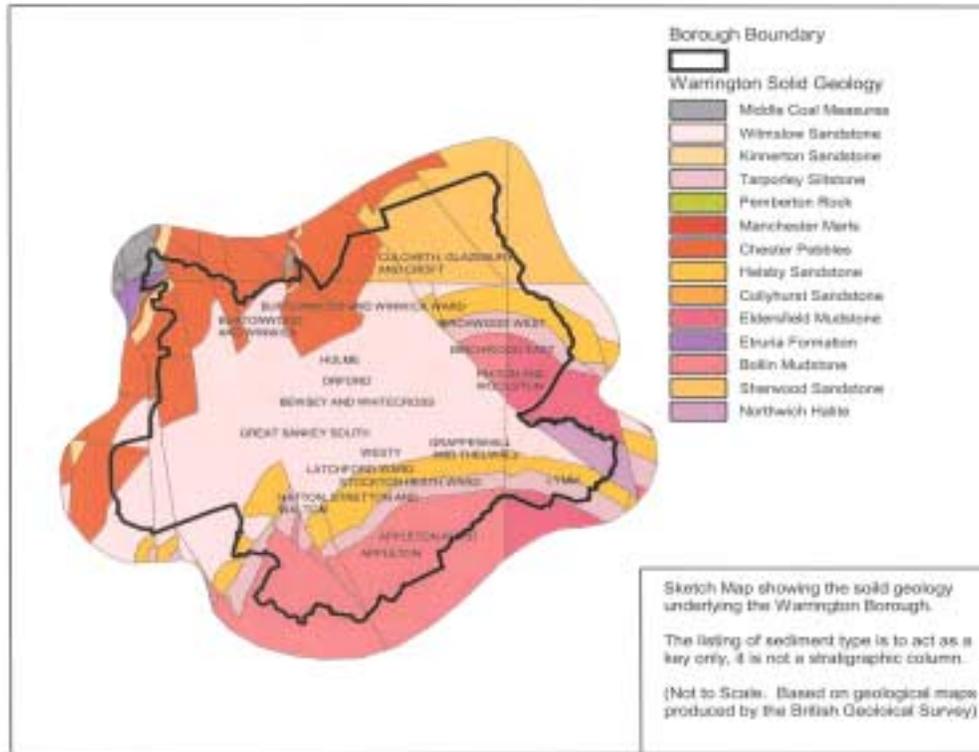


Figure 7.4 Solid Geology for the Warrington Area

#### Solid Geology

The solid geology of the Borough consists of a series of strata that dip gently towards the south and outcrop in a series of broadly parallel bands, each strata type is addressed in turn. This pattern is interrupted by major structural features, which will have an influence on the way any aquifer behaves.

#### Types of Strata:

##### 1) The Sherwood Sandstone Group

Rocks of the Sherwood Sandstone Group comprise the majority of the north and central area of the Borough. These strata can reach up to 700 metres in thickness to the south of the Borough.

The Chester Pebble Beds overlain by the Wilmslow Sandstones, together form the lowest of the Triassic strata. (formerly known as Bunter Sandstone). They consist of sandstones which, in the case of the Pebble Beds, are medium to coarse grained with rounded pebble inclusions. The highest member of the Sherwood Sandstone (overlying the Wilmslow Sandstone) is the Helsby Sandstone (formerly known as the Keuper Sandstone). The Helsby Sandstone is more resistant than the underlying Sherwood Sandstone and as such has tended to be less eroded. They form a well

defined escarpment at Hill Cliffe. Due to their extensive outcrops and their permeable nature, the Sherwood Sandstones form an important source of underground water supply.

## 2) **The Mercia Mudstone Group**

Rocks of the Mercia Mudstone Group outcrop at the extreme south of the Borough.

The Tarporley Siltstones which form the lowest part of the Mercia Mudstone Group are transitional between the sandstones of the Sherwood Sandstone and the mudrocks of the overlying Mercia Mudstone proper. They consist of a series of thinly bedded marly brown sandstones and soft sand shales.

## 3) **Older Strata**

At depth, the Sherwood Sandstones overlie 100 to 150 metres of Permian Strata consisting of the Manchester Marl, which is a mudstone unit, overlying the Collyhurst Sandstone, another locally important and productive aquifer. Beneath the Permian strata are the Coal Measures. These rocks outcrop to the north of Warrington.

## **Drift Geology**

With the exception of a few areas of outcrop, the solid bedrock is overlain by a variable thickness of glacial drift deposits (typically up to 10 metres in thickness) throughout the Borough. The layer of glacial drift is thicker (up to approximately 70 metres) within deep glacial channels which occur along the Mersey Valley and beneath the Sankey Brook.

Glacial tills (boulder clay) predominate, and these can be sandy or contain frequent lenses and layers of glacial sands and gravels. A widespread belt of windblown sand covers parts of the central area of the Borough and to the south of the Manchester Ship Canal. Alluvial deposits and fluvio-glacial sands and gravels flank the River Mersey and Sankey Brook.

### **7.5.4 Groundwater Vulnerability**

Warrington is underlain by both major and minor aquifers, all of which contain groundwater in exploitable quantities.

The presence of glacial drift material has essentially served to protect the groundwater from contamination. However, where drift is absent there is significant potential for contamination to impact on groundwater quality.

The greatest potential for groundwater contamination, due to the lack of drift cover and concentration of industrial development, exists within the Mersey Valley. Groundwater quality is, however, poor in this area and not used for public supply except for some limited industrial abstraction.

The general Groundwater Vulnerability of the Borough has been assessed with reference to the Environment Agency Groundwater Vulnerability Map, 1:100,000 scale, Sheet 16 (West Cheshire) and through preliminary discussions with the Environment Agency as part of the pilot Strategy work.

Within the Borough the following broad Groundwater Vulnerability classes/situations exist:

- i) areas classified as minor aquifer with soils classified as having a high leaching potential;
- ii) areas classified as major aquifer with soils classified as having a high leaching potential;
- iii) areas classified as major aquifer with soils classified as having low leaching potential;
- iv) areas as listed in (i) to (iii) above, but also having low permeability, non-water bearing drift deposits occurring at the surface overlying major and minor aquifers:  
and
- v) areas classified as non-aquifer.

The central area of Warrington and extending along the flanks of the River Mersey and Sankey Brook, is classified as a minor aquifer with soils classified as having high leaching potential. It should be noted that for the majority of the area of central Warrington, soils have been classified as high leaching potential. This classification has been determined because soil information for urban areas is less reliable and based on fewer observations than in rural areas, the worst case is therefore assumed and as such land is classified as high leaching potential until proven otherwise. For the remainder of this area, soils have been classified as soils with a high leaching potential which rapidly transmit liquid discharges because they are either shallow, or susceptible to rapid by-pass flow directly to rock, gravel or groundwater.

With reference to the Groundwater Vulnerability Map, minor aquifers within this area comprise the following drift deposits: blown sand (including Shirdley Hill Sand); alluvium; river terrace deposits; and glacio-fluvial sand and gravel deposits. Generally, whilst there is groundwater present in these deposits (representing a controlled water feature), their principal significance is as a pathway to surface waters although locally they may be suitable for supply. Often, they may be in continuity with surface water features rather than major aquifers. These waters are more vulnerable to surface activities and their quality is variable.

The above area coincides with the greatest concentration of sites in the information on past potentially contaminative landuse.

The surrounding area comprises a major aquifer (the Sherwood Sandstone Group) with soils predominantly classified as having a low permeability (Boulder Clay) with areas of high permeability soils essentially comprising areas where drift is absent or where development has occurred and the worst case has been assumed due to uncertainty over the precise nature of the drift.

Very good quality waters exist to the north of the Borough, the main exploitation occurring within this area for example at Winwick and Houghton Green. Groundwater from this area is utilised for potable supply. In general, there is less potential for groundwater contamination in this area of the Borough due to the limited extent of industrial development either historically or currently. The main impacts on groundwater quality in this area are from agricultural land usage.

Areas which have been classified as non-aquifers comprise the southern extent of the Borough and two areas to the north of the Borough, one in the vicinity of Risley Moss, the second comprising a small area to the north of Hermitage Green. It is noted that the area of non-aquifer in the vicinity of Risley Moss coincides with areas of clay extraction and subsequent landfilling.

In general terms, the distribution of sites of potential land contamination is favourable with respect to geology and groundwater quality and utilisation. The industrial areas have tended to be located in areas either where drift deposits protect the groundwater and/or where groundwater is of poor quality and not used for abstraction except for on a limited basis by industries.

Whilst no specific concerns were raised within our preliminary discussions with the Environment Agency with respect to groundwater vulnerability, it was noted that certain types of industrial activity are likely to have had an affect. Activities of particular concern to the Environment Agency are those involving the large-scale storage of chlorinated solvents and fuels. In addition, any activity near to a potable abstraction point is viewed with concern. Within the implementation of the Strategy, whilst our primary focus will relate to the assessment of risks to human health, we will, in consultation with the Environment Agency, prioritise risks to groundwater in accordance with the concerns identified.

### Groundwater Protection Zones

Source Protection Zones (SPZs) have been identified by the Environment Agency for approximately 2000 groundwater sources (wells, boreholes and springs) used for 'public drinking water supply'. The SPZs provides an indication of the risk to groundwater supplies, for which SPZs have been defined, that may result from potentially polluting activities and accidental releases of pollutants. Generally, the closer the activity or release is to a groundwater source, the greater the risk. Three zones (an inner, outer and total catchment) are usually defined, although a fourth zone (zone of special interest) is occasionally defined.

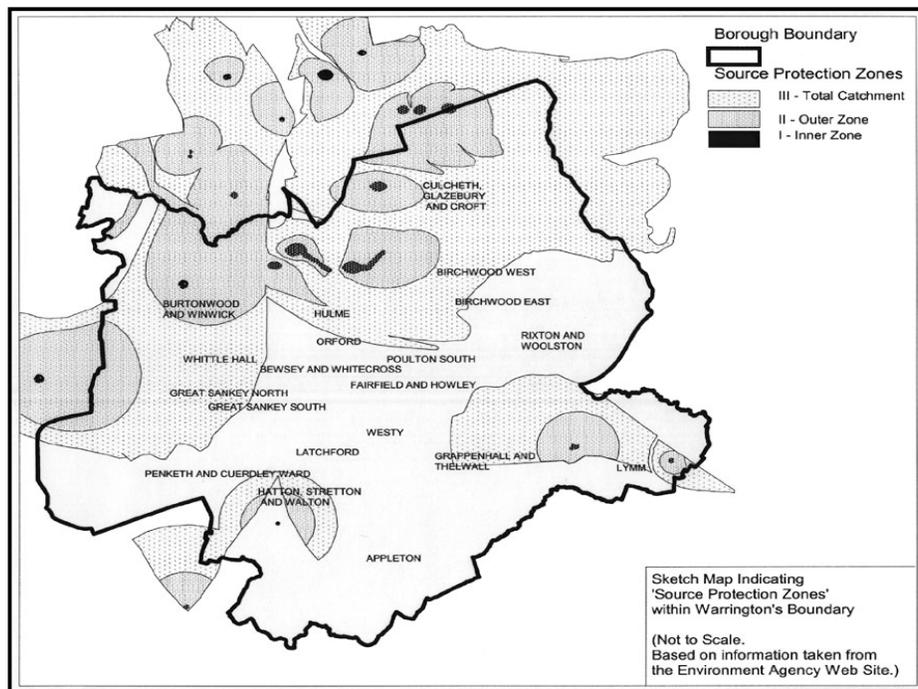


Figure 7.5 Source Protection Zones throughout Warrington

- **Zone I (Inner Protection Zone)** – Zone defined by a travel time of 50 days or less from any point within the zone at, or below, the water table. Additionally, the zone has a minimum of a 50 metre radius. This is based principally on biological decay criteria and is design to protect against the transmission of toxic chemicals and water-borne disease.
- **Zone II (Outer Protection Zone)** – Zone defined by a 400-day travel time, or 25% of the source catchment area, whichever is the larger. The travel time is derived from consideration of the minimum time required to provide delay, dilution and attenuation of slowly degrading pollutants.
- **Zone III (Total Catchment)** – Zone defined by the total area needed to support the abstraction or discharge from the protected groundwater source.
- **Zone of Special Interest** – For some groundwater sources an additional ‘Zone of Special Interest’ may be defined. These zones highlight areas (mainly on non-aquifers) where known local conditions mean that potentially polluting activities could impact on a groundwater source even though the area is outside the normal catchment of that source.

For further information on SPZs see the Environment Agency’s ‘Policy and Practice For The Protection of Groundwater’ (1998). Figure 7.5 highlights SPZs throughout the Warrington boundary.

### 7.5.5 Surface Water

The main surface water features within the Borough are covered in this section, based on information provided by the Ordnance Survey.

Currently the majority of information available to us with regard to water quality relates to the area of Warrington to the north of the Manchester Ship Canal. The main watercourses comprise the areas of Glaze Brook, Sankey Brook and their tributaries, and the River Mersey. It also includes the catchments of Padgate, Spittle and Whittle Brooks. It is understood that the Environment Agency also include St. Helens Canal, the Manchester Ship Canal and Bridgewater Canal within their routine monitoring programme.

Within Warrington, most of the main water courses and their tributaries identified above flow through areas which have historically been subject to a variety of activities including chemical works, glass manufacture, copper smelting, tanning, brewing and military establishments. There are also a number of closed landfill sites, which pre-date and are excluded from the waste site licensing regime practises.

Previous discussions with Environment Agency Officers have, however, indicated that they are not aware of any high priority sites with respect to impacts on water quality within the Borough. They do however caution that it is possible that leachate outbreaks may be occurring which have not been detected, in part due to the tidal nature of Sankey Brook, where the deposition of silt may mask any existing outbreaks. Sites will be reviewed in accordance with the Strategy methodology on a site-specific basis and potential impacts identified on a priority basis in discussion with the Environment Agency.

In terms of existing and future water quality, two classification systems are operative. Firstly, the Environment Agency has proposed strategic targets known as River Quality Objectives (RQOs) with proposed standards set for the short and long term. The second system comprises General Quality Assessments (GQAs) with water courses classified with gradings A (good) to F (bad).

The breakdown of the 'General Quality Assessment Classification' for 1997-99, has been taken from the Environment Agency's web site. It demonstrates that the majority of main water courses within the Borough i.e. the River Mersey, Sankey Brook, Philips Brook, Glaze Brook, Moss Brook, Pennington Brook and parts of the St Helens Canal were classified as bad to poor. Sections of Padgate, Whittle Brook, Spittle Brook, Bollin, Sow Brook and sections of the Manchester Ship Canal were classified as fair.

Information provided by the Environment Agency indicates that, whilst they are not regularly monitored by them, Appleton Reservoir, Grange Mill Stream, Thelwall Brook, Lumb Brook and Massey Brook are thought to be of fair to good quality.

Whilst the vast majority of sites, which appear on the database of potential land contamination, are situated to the North of the Manchester Ship Canal there is some degree of coincidence between water courses and such sites to the South of the Manchester Ship Canal. As noted above, preliminary discussions with Environment Agency Officers have indicated that they are not aware of any high priority sites with respect to impacts on water quality within the Borough. Sites will be reviewed in accordance with the Strategy methodology on a site specific basis and potential impacts identified on a priority basis in discussion with the Environment Agency.

### **7.5.6 Ancient Monuments**

All Scheduled Ancient Monuments (SAMs) are listed (presently 14 (2001)) within a layer on the GIS system. This will be used to consider the possibility of significant harm as part of the risk assessment procedure. In the case of SAMs, substantial damage (i.e. harm) will be regarded as any damage that significantly impairs the historic, architectural, traditional, artistic, or archaeological interest by reason of which the monument was scheduled.

Where contaminated land is identified containing an unscheduled archaeological site, consideration will be given to potential impacts during the design of any mitigation strategy.

In all cases, consultation will be sought with the County Archaeologist and English Heritage.

## **7.6 Conclusions**

Whilst, the Strategy will be holistic considering all risks, it is, however, possible to distil some priority areas in relation to the overall Strategy objectives and the characteristics of the Borough. These are:

### **Redevelopment for Residential Purposes**

An initial analysis of the database of historic land use reveals that only a few of the sites have been redeveloped for residential purposes on which we have information. There

are exceptions, including some sites redeveloped prior to the 1990 cut off date (7.3.2). These areas will be considered as a priority within the implementation of the Strategy.

### **Areas of infill**

In common with many local authorities, a substantial number of areas of former landfilling are currently utilised as recreational open space and are within the ownership of the Borough Council. Many of these sites are within close proximity to residential and commercial development.

A previous review and prioritisation of potential landfill gas producing sites within the Borough was undertaken in 1990. Sites were prioritised predominantly according to any risk posed by landfill gas. As a result of the review a number of sites were subject to landfill gas protection measures. An ongoing programme of monitoring was also put in place.

These sites will need to be revisited as a precautionary measure due to the age of the monitoring points and gas protection measures. The leachate regime at a number of sites also needs to be more adequately quantified given the increased emphasis placed upon surface water and groundwater vulnerability under the new Part IIA regime.

### **Commercial Properties**

A relatively large number, of sites on which we have information have been redeveloped for industrial/commercial purposes. These will be prioritised for inspection based on the methodology presented within the Strategy and the effectiveness of any remedial measures.

## **8.0 INFORMATION COLLECTION**

### **8.1 Information Collection**

Paragraph B.15 of the Statutory Guidance requires suitable arrangements and procedures to be in place for obtaining information on:

- Actual harm or pollution of controlled waters
- Information on receptors
- Information on the possible presence of contaminants and their effects

It is imperative that the information collected is sufficient, in terms of its degree and accuracy, in order that it can feed into the risk prioritisation procedure, which will in turn allow sites to be prioritised for detailed inspection/determination.

Information requirements have been identified with reference to the statutory Draft Technical Advice note on Inspection Strategies for Contaminated Land (DETR 2000) and other relevant good practice documents.

Existing information held by the Council has been evaluated and any information gaps identified. This has enabled our information requirements to be programmed. The programme will focus initially upon the attainment of the key datasets required to undertake the initial prioritisation of sites using our Geographical Information System (GIS). The information held and the information required is listed in Appendix 4.

The second stage will then source information that will be pertinent to the actual site determination. This is likely to be undertaken on a site-specific basis. The whole programme will be subject to an ongoing review in order that the information held remains relevant.

Information will need to be obtained from both internal and external sources. Key contacts have been identified for internal information providers and a review will be undertaken in order to identify the exact nature of the information held, including its format, accuracy and likely archive date (if applicable). Such a review will, however, be resource intensive, which means that it is likely to be undertaken in discrete stages according to available resources and the relevance of the information held. External information providers have also been identified and these will be approached according to our overall programme, which is likely to mirror the risk prioritisation process.

The acquisition of information will remain a live process in order to ensure its accuracy and completeness.

## **9.0 RISK PRIORITISATION PROCEDURES**

### **9.1 Introduction**

A major aim of the Strategy is to identify unacceptable risks to human health and the environment and to take action on a priority basis. This requires the Council to adopt a set of prioritisation procedures, in order to assign priorities for the further detailed investigation/ inspection of particular areas of land.

Prioritisation procedures will be based upon an assessment of the **risk** from any land that may be contaminated.

This will involve evaluating all relevant information as detailed in Chapter 8.

As part of this Council's involvement in developing a pan Merseyside Contaminated Land Information Management System, the Council is developing a risk prioritisation model for the purposes of this inspection Strategy. This will utilise a GIS to enable preliminary prioritisation to be carried out systematically and efficiently.

Sites that the Council already hold detailed information on may be treated separately from this process or be accelerated within it if it is suspected that their maybe a risk to human health or the environment. Evidence of actual harm will also trigger more urgent action. Close regard will, therefore, need to be had to the review triggers outlined in Chapter 16.

### **9.2 Methodology**

This section sets out the approach and general principles used to formulate a methodology, although the specific risk prioritisation methodology is currently being developed for implementation.

The methodology used follows the recognised good practice outlined in the DETR report CLR 6 (Ref16). This has been updated to include all the receptor datasets identified in the Part IIA regime and all other currently applicable source and pathway datasets.

This methodology is based upon the pollutant linkage concept (source-pathway-receptor), investigating the spatial correlation between potential contamination sources and their proximity to potential receptors (as defined in the Statutory Guidance, see Section 5.3.1). The spatial correlation may be:

- Coincidence (occupying the same space); and/ or
- Influential (assumed or known zone of influence).

Due to the difficulty in obtaining sufficiently detailed information on pathway datasets at present, the model will only consider sources and receptors. Information on pathways will be included in the model if available in the future.

### 9.2.1 Part I Assessment (Preliminary Screening Process)

In adopting this prioritisation method, the Council recognises the potential number of contaminated sites that may be identified during the course of the identification stage. Given limited resources, the aim of the Part I Assessment will be to apply a preliminary screening process to assign an initial priority ranking to all sites for further assessment.

#### **Classification of Datasets:**

**Source datasets** - Three priority classes (high, medium and low) will be used based upon an index of perceived risk developed by Syms(Ref17). They indicate the likelihood of contaminative substances being present at concentrations which may result in 'significant harm' being caused, or may result in pollution of controlled waters.

The listing of land use types, their priority class and an associated keycode will be used in the model. This is based on Syms (1999), with additional landuses categorised by comparison with industries of similar polluting potential.

**Receptor datasets** – Consistent with the Council's principle to give priority to the assessment of risks to human health, the model ensures sites posing the greatest risk to human receptors will receive the highest priority. Receptor datasets will be classified under three headings:

Development – includes risks to humans (e.g. residential properties, schools, parks and open spaces), ecological flora and fauna (e.g. SSSIs) and buildings and property (e.g. ancient monuments and listed buildings).

Controlled Surface Waters – includes risks to surface water features.

Controlled Ground Waters – includes risks to controlled waters on the basis of Environment Agency Source Protection Zones, drinking water abstractions points and aquifers.

#### **Part I Assessment Groups:**

Completion of the Part I Assessment will place sites in one of three groups A, B or C. Group A sites will be the highest priority for Part II Assessment, prioritisation and investigation, followed by Group B and sites of lowest priority placed in Group C. Any site placed in more than one Group under different headings, will be placed in the highest priority groups. For example, if a site is assessed under "Development" and placed in Group A, and assessed under "Ground water" and placed in Group B, the site will be placed in Group A.

Sites in Group A will be assessed first in the Part II Assessment, followed by sites in Group B and finally Group C.

## 9.2.2 Part II Assessment

Following the initial Part I Assessment, the Council will proceed to a Part II Assessment. This will place sites into further priority categories within the Groups A, B or C. More detailed information about each site and any relevant pathways or receptors may be required in order to detail the hazards likely to be present. This will allow the Council to determine if the land is statutory contaminated land, requiring formal designation and notification. This may involve a more detailed inspection involving a desk-top study, site walk-over and/ or an exploratory survey. The extent of inspection required will depend upon information currently available (see Chapter 13). The Part II Assessment will utilise best practice methods available and follow established guidance, including CLR6 (Ref12).

The Council will source any information held by another organisation and have regard to any evidence of previous remediation (see Chapter 14).

This methodology may be updated in the future, subject to the results of a current research contract for DEFRA commissioned in support of the Part IIA regime, or any other relevant best practice guidance.

In carrying out this task, the Council will ensure its approach is consistent with the principles set out in the Statutory Guidance i.e. rational, ordered and efficient.

## 9.2.3 Detailed Assessment

Following the initial prioritisation procedures the Council will have to engage in an in-depth appraisal of contaminated sites. As described previously, any assessment of contaminated land will use a risk-based approach.

When assessing contaminated land the Council, or its consultants, will choose the most appropriate method for risk assessment. The current methodologies for assessing the potential health and environmental impacts of land contamination broadly consist of the following:

- site specific risk assessment models;
- generic guideline values; and
- qualitative expert judgement.

The Council will be site-specific when selecting the most appropriate methodology based on the characteristics of a site and the nature of the contamination present.

When using any models, consideration will be given to any assumptions underlying any numerical values, any conditions relevant to their use, and any adjustments that need to be made to reflect site-specific circumstances.

### Site-Specific Risk Assessment Models

Described below are some of the more common models likely to be used during site specific risk assessment:

Contaminated Land Exposure Assessment Model (CLEA): Technical Basis and Algorithms. Contaminated Land Research Report 10. (DETR 2000) (Ref.18) – The CLEA model has been developed for the purpose of calculating the concentrations of

contaminants in soil below which the risks to human health are considered negligible. The model uses data on the human toxicological effects of contaminants which have been collated by DEFRA and the Environmental Agency. The model is currently unpublished, but is anticipated in the near future.

In addition, CLEA has been used to derive guideline values for soils (DETR and Environment Agency, 2000) “Guideline values for Contamination in Soils, Contaminated Land Report GV Series (DETR, in press). Again, the Council is awaiting their publication. When published, these will replace the trigger concentrations of the Interdepartmental Committee on the Redevelopment of Contaminated Land (ICRCL).

Framework for Deriving Numeric Targets to Minimise the Adverse Human Health Effects of Long-Term Exposure to Contaminants in Soil, (Scotland and Northern Ireland Forum for Environmental Research (SNIFFER)) January 2000 (Ref19)– This report provides a methodology for deriving site-specific numeric targets for contaminant concentrations in soil that are protective of human health, using toxicological information, according to the source-pathway-receptor risk assessment framework. The exposure pathways considered are direct ingestion of soil, consumption of home-grown or allotment vegetables, inhalation of soil vapours outdoors and inhalation of soil vapours.

It is envisaged that the methodology can be used as both a risk assessment and risk management tool.

#### **Guideline Values:**

To simplify risk assessment the Council may use authoritative and scientifically based guideline values for concentrations of the potential pollutants in, on or under the land in pollutant linkages of the type concerned.

ICRCL 59/83 (2<sup>nd</sup> Edition, July 1987) – “Guidance on the Assessment and Redevelopment of Contaminated Land” (Ref20)– This document sets out threshold and action trigger concentration levels for a range of contaminants which depend on the intended use of the site. This document has been widely used since its publication and is likely to remain so pending the publication of the guideline values and risk assessment models currently being prepared by the DEFRA.

When using any appropriate guideline values for the purpose of assessing the risk from contaminated land, the Council will ensure:

- (a)** the guideline values used are relevant to the judgement of the potential effects from the pollutant linkage in question i.e. the significant possibility of significant harm;
- (b)** the assumptions underlying the derivation of any numerical values in the guideline values are relevant to the circumstances of the pollutant linkage in question e.g. assumptions regarding soil conditions, the behaviour of potential pollutants, the existence of pathways, the land-use patterns, and the availability of receptors;
- (c)** any other conditions relevant to the use of the guideline values have been observed e.g. the number of samples taken or the methods of preparation and analysis of those samples; and

- (d) appropriate adjustments have been made to allow for the differences between the circumstances of the land in question and any assumptions or other factors relating to the guideline values.

#### **9.2.4 Controlled Waters**

Advice will be sought from the Environment Agency on risk assessment if controlled waters are the receptor in a particular pollutant linkage. It is anticipated that risk assessment and remediation will be carried out in accordance with Environment Agency guidance. The Environment Agency will normally use the Methodology for the derivation of remedial targets for soil and groundwater to protect resources (Environment Agency R&D publication 20, 1999) (Ref21), and the ConSim model. The latter has been developed on behalf of the Environment Agency to provide a model to assess the risks posed to groundwater by leaching contaminants.

For surface waters, the Environment Agency will normally seek to protect existing water quality and have particular regard to Environmental Quality Standards.

## **10.0 LAND OWNED BY THE AUTHORITY**

### **10.1 Introduction**

The Council recognises that its role as a landowner and regulator may raise concerns about a perceived conflict of interest. The following sets out our policy for managing Council assets in accordance with the Part IIA regime.

### **10.2 Current Land Holdings**

The Council currently owns, occupies or has formerly owned or occupied a significant number of properties and land-holdings within the Borough.

The portfolio includes:

- 109 Retail Units
- 79 Industrial Units
- 91 Schools and Playing Fields
- nearly 11,000 Council houses
- 820 hectares of public parks and open space
- Numerous other operational and non-operational properties.

### **10.3 Management Policy**

The Council's Asset Management Plan will be used to manage land for which the Council maintains an interest. The plan will look at long-term requirements in relation to the assets taking into account related policy areas and community needs. A 3-5 year delivery plan will then be implemented. The requirements of the contaminated land regime will be integrated within the plan in line with the Council's community pledge to work with partners to regenerate derelict land and brownfield sites. The plan will provide the structured mechanism required for looking at Council assets with regard to Part IIA of the Environmental Protection Act 1990.

The plan is supported corporately and the Chief Executive is responsible for the strategic management and control of all property and land assets for which the Council holds an interest. The establishment of an Asset Management Group will also ensure that the implementation of asset management plan is consistent with related service areas, including contaminated land management.

It is envisaged that the risk assessment of Council assets with regard to the contaminated land regime will be undertaken using the methodology detailed in Chapter 9. The digitisation of the land portfolio, which is currently a paper based Terrier System, will assist this process by allowing Council owned land to be quickly identified. Land that the Council holds an interest in will then be prioritised according to its status within the overall risk assessment process as this will ensure that resources are allocated according to risk not according to the whether the Council is the landowner. The Council will however promote the environmental regeneration of its assets wherever possible within resource pressures.

The Council will also ensure that contaminated land issues are addressed during any land transactions involving the Council. This will include the assessment of the site against our internal records to examine any contaminated land issues. It will not, however, be possible to formally determine the status of the site as this will be done within the overall framework of the Strategy.

Performance will be measured via the Strategy and by monitoring against the Asset Plan performance indicators.

The Council will also respond to enquiries relating to the status of land within its stewardship and it will also maintain the appropriate records in the public register. The contact details given in the Strategy should be used.

## **11.0 LIAISON AND COMMUNICATION**

### **11.1 Introduction**

The development and implementation of the Strategy demands a high degree of liaison and consultation if the objectives of the contaminated land regime are to be delivered. The need to gather and exchange information between organisations in order to make decisions is, therefore, inherent within the overall process. It is the aim of this Council to achieve consensus, where possible, through effective consultation and engagement.

Whilst, this process cannot be prescriptive it is important that it is rational and organised. All initial contact with the Council should be made via the nominated officer who will co-ordinate the necessary response. The internal processes for the overall management of contaminated land within the Council are set out in Chapter 6.

The Council is also committed to maintaining its strong links to regional groups, such as the Manchester Area Pollution Advisory Council (MAPAC), Cheshire Pollution Group and the Merseyside Contaminated Land Officer Working Group (CLOG). The maintenance of a close working relationship ensures exchange of expertise and information, whilst promoting a consistent approach. Local authority members of these groups will also be consulted on the Strategy prior to implementation.

Consultation with external organisations and interested parties will be carried out at each appropriate stage of the process. We have, however, attempted to formalise the main points of liaison below. This list is based upon the statutory bodies and it should not be treated as being exclusive.

### **11.2 Statutory Bodies**

The contaminated land Circular 02/2000 prescribes various statutory bodies, within paragraphs B.15 to B.17, who can provide pertinent information. The key organisations include:

- The Environment Agency (see individual section)
- English Nature
- English Heritage
- English Partnerships
- DEFRA
- The Northwest Regional Development Agency
- MoD/ Defence Estates (included due to amount of current and former MoD land within the Borough)

Each organisation has specific strategic aims and objectives designed to safeguard the environment and promote regeneration through positive actions. The Council supports these initiatives and every effort has been made to incorporate them within Council policy, including the objectives of this Strategy. Each organisation will be consulted on the Strategy in order to ensure that it is consistent and complementary to their related policy area.

It is recognised that information held by these organisations is vital to the risk based assessment of contaminated land. Formal contact has, therefore, been established. The information obtained has been integrated into the Council's information management system, which will inform the subsequent risk assessment. If this process identifies any site specific issues then the advice of the relevant body will be sought on the following:

- The accuracy and completeness of the information
- The risk evaluation
- The need for any sensitive site investigation
- The appropriateness of any remediation (including monitoring and validation)
- The need for any urgent action
- Review triggers
- Joint communication strategy

There shall be a presumption on the part of the Council that the relevant contact point will ensure that they consult internally within their organisation, unless notified otherwise.

### **11.3 The Environment Agency**

Whilst the Council has sole responsibility for the determination of statutory contaminated land the advice of the Environment Agency will be sought throughout the contaminated land process. Advice will be sought on the following issues as a minimum:

- Relevant information held on possible pollutant linkages
- Pollution of Controlled Waters
- Radioactivity issues (outside of the Strategy remit)
- Potential 'special sites'
- Statutory contaminated land determinations and the application of Environment Agency guidance
- The relevance of other regulatory regimes under the remit of the Environment Agency
- Remediation schemes
- The need for permits/licences and consents

A strong working relationship will be maintained in order to ensure that action taken is consistent with Environment Agency advice. All liaison, communication and action will be undertaken in accordance with the Environment Agency/local authorities' memorandum of understanding (Ref22) and the Environment Agency Handbook (Ref23) and procedural notes (Ref24). Liaison between the Council and the Environment Agency will also follow the principles set out in the document "Working Better Together" (Ref25).

There shall be a presumption on the part of the Council that the Environment Agency will notify the nominated officer regarding any pertinent information held or received by the Environment Agency. Any requests for additional information regarding a notification sent to the Environment Agency should be made in writing to the designated local authority contact. The Council will ensure that the Environment Agency is notified via their area contact of any information held by the Council as expeditiously as possible.

## **11.4 North Cheshire Health**

Where a site may become designated as statutory contaminated land and the designation is as a result of risk to human health, North Cheshire Health will be informed and involved in the human risk assessment process.

## **11.5 Appropriate Persons**

The Council is committed to involving possible appropriate persons within the process in order to achieve consensus and to meet the aim of voluntary remediation. Possible interested parties are likely to be identified via a number of sources including: legal searches; records held by the Council and other organisations; trade directories and registers; legal documents; and third party information. All decisions regarding the interest held by an individual will be made in consultation with the Council's legal services. The rights of the individual will be upheld at all times.

If the Council is satisfied that there is reasonable possibility of a pollutant linkage and that a person or organisation holds an interest, then every effort will be made to advise them accordingly before any formal determination.

The Council does, however, reserve the right to take immediate action if it is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters being caused as a result of a significant pollutant linkage (see Chapter 14). Every effort will, however, be made to contact the appropriate person, where possible. The Council will follow the procedures in Chapter 15 prior to considering cost recovery.

The appropriate persons will be given a reasonable opportunity to provide any information requested by the Council. The appropriate person will be expected to provide suitable evidence of any previous remediation schemes. It should be noted that such evidence is only likely to be accepted if it is supported by suitable post remediation validation.

The Council will only consider undertaking an inspection of the land if the appropriate person(s) fails to provide sufficient information, in a reasonable time, to make a determination. If the Council considers that a site inspection or investigation is necessary, then it will follow the procedures in Chapter 13.

The Council will ensure that it has fully evaluated the role of other regulatory regimes as part of this process, including their ability to address the pollutant linkage. If the Council is satisfied that the other regime will not suitably address the linkage, then the appropriate person will be advised as to their status under Part IIA of the Environmental Protection Act 1990.

The Council will discuss any site with the appropriate person where it considers that it falls just below the level by which it could be determined to be statutory contaminated, this will include any need for monitoring and "review triggers".

The Council will make its determination as to the status of the land in accordance with Circular 02/2000 Chapter B Part 4. The determination will be recorded and it shall include the information prescribed in section B.52 of the Circular. The owner/occupier and appropriate persons of the land will then be notified as per Part IV of Annex 2 of the Circular. The Environment Agency will also be notified of the determination.

The Council will endeavour to provide the following information, where possible:

- A copy of the written determination
- Information on the availability of site investigation reports
- Why they have been identified as an appropriate person
- The names of other appropriate persons (subject to legal advice)

The consultation period following notification will last for a minimum of three months (excluding urgent remediation). The Council may extend this period if the extension is deemed beneficial to the achievement of an appropriate level of remediation.

The Council will also inform the appropriate persons about the tests for exclusion and apportionment. The onus will, however, be on the individual or organisation to provide relevant information to the Council on any exclusion sought, including the identification of any unknown appropriate person that they wish the Council to consider.

The Council will ensure that it gives the appropriate person every reasonable opportunity to discuss their case with the nominated officer appointed to their case. We will also ensure that they are informed of any subsequent decision made as to their liability status.

Every reasonable effort will be made to secure voluntary remediation in accordance with Chapter 14. Where voluntary remediation is no longer considered appropriate then the party will be advised why the Council is of this opinion. They shall also be referred to Council's enforcement policy and the grounds for appeal against the service of a remediation notice. The Council will then pursue formal resolution of the problem in accordance with Chapter 14.

It should be noted that the Council does not have a policy of "signing off" land following the implementation of the remediation package. It will, however, make a suitable statement within the public register. The appropriate person will also be notified of the "review triggers" for the site.

## **11.6 The Community and Local Interest Groups**

The Council recognises the concerns that the community may hold concerning contaminated land. The Strategy team will respond to all reasonable requests for information. Reports on the Strategy's progress will be made periodically to the Environment Committee.

The Council will attempt to respond to requests as to when sites in their area will be risk assessed. It is important, however, that such requests do not skew the Council's programme, which must remain focused on risk issues, in order that resources are apportioned accordingly.

It is also important to note that the definition of statutory contaminated land under Part IIA of the Environmental Protection Act 1990 is strict given its risk based approach. The Council can, therefore, only require the removal of a pollutant linkage, unless further works are undertaken through voluntary action.

## 11.7 Risk Communication

Under Part IIA, the Council will be determining the presence of contaminated land using a risk-based approach. Decisions about contaminated land can often be very complex. In many cases, this will impact upon a variety of parties who, in turn, may have an interest in contaminated or suspected contaminated land. Public acceptance of decisions made is very important if contaminated sites are to be remediated successfully and effectively. Therefore, effective risk communication is an integral part of the Strategy.

However, certain parties may not appreciate that the Part IIA regime only grants limited powers to the Council to deal with contaminated land issues. Some persons may believe any source of contamination in their vicinity should be removed entirely. It is, therefore, essential that the Part IIA principles of “pollutant linkages”, “significant harm” and the “potential of significant harm” (as described in Section 1.2) should be explained to all interested persons.

The Council will ensure all appropriate parties receive appropriate levels of information, both during the inspection stage of the Strategy and during any ensuing remediation of contaminated land. The expertise of the Council’s communication team will be used to ensure an effective transparent process is adopted. North Cheshire Health and the Environment Agency will be contacted where appropriate. Resources will be allocated according to the level of communication required.

Reference will be made to the SNIFFER publication “Communicating Understanding of Contaminated Land Risks” (Ref 26) and other good practice guides (Ref 27) for further information in formulating any specific risk communication strategy for individual sites. Following this guidance, the Council will address the four key steps in the process of communicating risk:

- **Step 1 - When to communicate:**  
**Early dialogue** will ensure maximum benefit can be gained and help build trust and understanding with stakeholders. **Continual communication** will be maintained throughout the process.
- **Step 2 – Who to communicate with:**  
Identify **appropriate stakeholders**.
- **Step 3 – What to communicate:**  
Identify the **key messages** to be communicated, but remain **open, accessible, listening and responsive**. Any strategy developed will remain flexible to deal with the unexpected.
- **Step 4 – How to communicate:**  
Seek **professional guidance and support** on communication approaches. A range of different approaches will probably be required. The process will be a **two way process**, respecting the views of all participants.

At all times, the Council’s risk communication procedures will maintain **transparency** to promote trust in the regulatory role, and **openness** to enhance the legitimacy of the overall process to stakeholders.

## **12.0 INFORMATION MANAGEMENT**

### **12.1 Introduction**

The United Kingdom signed the 'Aarhus Convention' on access to information in 1998. The Freedom of Information Act (Ref28) enables the provisions of the convention to be met in England and Wales. It will replace the existing regime under the Environmental Information (Amendment) Regulations 1998.

### **12.2 Methods of Information Management**

Information management comprises collection, evaluation, maintenance and review. It is essential that each element be addressed this requires the use of a variety of systems.

- **Geographical Information System (MapInfo)**

A wide variety of data on land usage and site characteristics can be captured electronically against the current land use backdrop. A list of the information currently held is included in Appendix 4. The quality of the data will be assessed and the degree of coincidence in its accuracy and source recorded (metadata).

Specific sites can be evaluated by overlaying datasets on the screen to look at any coincidence between land usage and receptors i.e. the presence of any potential pollutant linkages.

The functionality of the system is currently being enhanced, as part of a partnership approach with the Merseyside authorities (CLOG). This will enable all the sites of historic land usage to be ranked in terms of potential risk (see Chapter 9). An output module will also be developed, which will allow the Council to generate reports that will allow the Environment Agency to compile the "State of the Environment Report".

- **Part IIA Database**

An access database is currently being developed to support the GIS. This system will be used to record the more detailed information generated by the regime, particularly the presence of any pollutant linkage, the subsequent determination and any appropriate person(s).

The system will enable customers to be rapidly advised as to the status of a site, the information held and the reason for any determination. It will also act as a library system, listing any information held.

The information will be held separately from that contained in the public register and as such any request for additional information will be addressed using our search service. No information pertaining to a person holding an interest in the land will be released unless the site has been designated as being statutory contaminated land.

- **Search Database**

The Council responds to requests made concerning the use of any parcel of land using its search service, which checks the site against our historic land use database for various prescribed distances. A reasonable charge for this information will be levied and the Council will endeavour to respond to all requests within six working days. All search requests will be recorded in an access database for our own internal use. Further information on this service can be obtained by contacting the nominated officer.

- **Customer Enquiry Database**

The Council operates a customer charter, as part of our Charter Mark status, for responding to and managing customer requests. This system will be utilised for recording customer requests for information or for recording anecdotal information. A unique reference number will be assigned to the enquiry and a customer response sheet will be generated. This will allow for action notes to be recorded and for performance to be monitored against our policy targets. The customer enquiry number will also be recorded in the Part IIA database as an information source. Details on our customer care policy can be obtained from our web site or by contacting the nominated officer.

### **12.3 Access to Information**

The regime requires the provision of the following discrete information outputs:

- Information for the “State of the Environment Report”.
- Historic Land Use Searches.
- Corporate Searches
- The Risk Prioritisation Programme.
- A report on the Environmental Assessment of Council Assets (summary format for external use).
- The Public Register.

Information will normally be made available using the search service. General site status information or informal information requests maybe handled through customer service, which will also be used to respond to requests as to progress on site determination.

The Council responds to corporate contaminated land enquiries under Condition 29 of the Environmental Information (Amendment) Regulations. Information pertaining to the actual determination of a site will not be released, until the Council is satisfied as to its status under Part IIA. It is hoped that this approach will avoid any unnecessary concerns about a site that may ultimately not be considered as being statutory contaminated.

All responses will, therefore, relate solely to the contents of the Public Register. The contaminated land Public Register will be maintained in the reception of the Environment and Regeneration Department of the Council, Palmyra House, Palmyra Square North. It will provide a full and permanent record of all regulatory action taken by the Council in relation to the contaminated land regime. Specifically, the register will include information on:

- remediation notices i.e. site information & remediation information;
- references to site investigation reports obtained or provided to the Council relating to the condition of the land or any remediation action, and accessible under the Environmental Information Regulations;
- remediation declarations, remediation statements and notifications of claimed remediation;
- other regulatory environmental controls i.e. land formally identified as contaminated land but dealt with either under IPC or Waste Management Licensing powers, instead of under Part IIA;
- discharge consents (WRA 1991) into controlled waters, which have impeded specifying particular remediation actions in a remediation notice
- 'special sites' designations;
- reference to any Environment Agency site-specific guidance issued;
- appeals against a remediation notice or charging notice; and
- convictions.

Further information on the particular details to be included on the register can be obtained from in Schedule 3 of the Contaminated Land (England) Regulations 2000. The register will be stamped with the date of the last update.

Copies of all information placed on the Public Register will be submitted to the Environment Agency as required.

The Council will ensure that no information relating to the affairs of an individual or business will be included on the register if that information is deemed to be commercially confidential. The Council will make this judgement according to the procedures laid down in Section 78T of Part IIA.

It should be noted that the Council is currently reviewing how information is provided in order that options, such as the internet can be utilised. Every reasonable effort will be made to ensure that information is available through this medium.

Any dispute concerning access to information will be dealt with through our departmental and corporate complaint procedures (available upon request).

Information generated during the implementation of the Strategy will be of use to other internal Departments. This will generally be made available upon request to the Environmental Protection Section.

## **12.4 Information Received**

All information provided by third parties will be recorded in the Part IIA database, Information provided by the public, including complaints from the public, business and voluntary organisations, will also be recorded as a customer request. The information received will be reviewed against the following criteria:

- Evidence of actual harm or significant risk.
- The accuracy/ quality of information.
- The nature of the receptors at risk (following our priority hierarchy).
- The existing risk priority.
- Whether it triggers the review procedure.

The information provider will be informed as to how the Council intends to act upon the information, including whether it is likely to affect stated assessment time-scales. It should be noted the information received from an appropriate person seeking to discharge any liability will not normally change the overall timescales of the review unless there is evidence of actual harm or unless it forms part of a remediation proposal.

It should be noted that information received anonymously might preclude the Council from taking action if the information is incomplete, inappropriate or its origin needs to be proved for legal reasons. The Council's policy is to protect customer confidentiality in order to encourage accurate information provision. Information may, however, have to be released in support of any legal action. The information author will be noted in such cases.

## **12.5 Provision of Information to the Environment Agency**

Under Section 78U of Part IIA the Environment Agency is required to publish a report on the State of Contaminated Land in England, the first due to be published in 2002. Local Authorities, as the lead regulators, are to provide the Environment Agency with much of the information necessary to write the report. The Local Government Association has drawn up a Memorandum of Understanding with the Environment Agency (Ref22) that sets out the exchange of information process. The Council will therefore provide information to the Environment Agency following the guidelines agreed at the national level.

The aim of the report will be to assess the scale and significance of the problem and the effectiveness of the measures put in place to address it under Part IIA. Hence, it will compile information on the following:

- the nature, extent and distribution of contaminated land;
- the level of remediation undertaken (under Part IIA); and
- the level of regulatory activity (under Part IIA)

### **Nature, extent and distribution of Contaminated Land**

Information will be determined from two sources of information supplied by each Local Authority to the Environment Agency:

- a copy of their Inspection Strategy; and
- notification of any site determined to be contaminated land

### **Remediation undertaken**

The Environment Agency will require each Local Authority to supply a copy of any notice, statement and declaration made for a site. No detailed information for individual sites will be included in the report, however, summary data will be presented.

### **Regulatory activity**

The Environment Agency will need summary information of each Local Authorities regulatory activity. The suggested format for this is on an annual basis, in April/May, for the previous financial year.

### **Collection of Information from Local Authorities**

To facilitate the easiest and most time efficient method for information collection, the Environment Agency has produced three standard forms for the summary information that is required (Ref30):

- Summary form SOCL/LA/FORM1 - When a site is determined
- Summary form SOCL/LA/FORM 2 – When remediation action is taken for a site
- Summary form SOCL/LA/FORM 3 – Annual summary of Local Authority regulatory activity

These forms will be adopted by the Council to fulfil its information reporting requirements. All information will be supplied as soon as the relevant stages of work have been completed. In addition, a copy of the Council's Inspection Strategy will be supplied to the Environment Agency on its publication.

## **13.0 INSPECTION**

### **13.1 Introduction**

The Council recognises that it has sole responsibility for determining whether land is statutory contaminated (B 31 Circular 02/200). A scientific and technical assessment will be undertaken to make the determination (Part 4 Chapter B of Circular 02/2000).

The assessment will consider whether, on the balance of probabilities, the land is statutory contaminated in accordance with the definition given in section 78A (2) on the Environmental Protection Act 1990.

The assessment will have regard to any information received, including the advice of the Environment Agency, English Nature and North Cheshire Health were relevant. The determination will also be made on the basis of any relevant guidance or standards and/or the ability of any existing management regime to prevent any harm.

The decision will also take account of any additive or synergistic effect between pollutants, and whether the pollutant(s) is/are in such a condition to affect the receptor and cause harm. The appropriateness of any other regime, including any discharge under the Water Resources Act 1991, will also be a determining factor.

The primary objectives of any inspection will, therefore, be:

- To enable an accurate and reasoned determination to be made
- To identify any 'special sites'
- To engage any interested parties prior to determination whenever possible

The procedure for achieving these objectives will involve a staged approach in order to minimise any disturbance and to ensure that resources are allocated according to need.

### **13.2 The Initial Assessment**

Sites will be prioritised for determination in accordance with the procedures outlined in Chapter 9. The fundamental question will be whether do we have sufficient information of a reasonable quality to make a determination at this stage. If determination is possible then the notification and consultation processes will be followed, the following points will, however, be addressed as a minimum:

- Does the urgent action procedure need to be implemented?
- Notify and consult the Environment Agency on the likely determination and the appropriateness of any other regulatory regime.

If there is insufficient information to make a determination then the Council will consider how best to complete the information gaps.

There shall be a presumption that any appropriate persons identified at this stage will be given a reasonable time period to provide the information (non-urgent cases). The supplier will also be advised whether the Council considers the information to be sufficient to enable a decision to be made, and if not, the reasons why. There will be a presumption that any information supplied must include appropriate validation and quality control.

### 13.3 Further Inspection?

If the Council is unable to obtain sufficient information within a reasonable time period then it will consider whether further investigation is necessary. In making this decision it will have regard to whether there is reasonable possibility of a pollutant linkage and whether the site is likely to be a 'special site'.

If a significant pollutant linkage exists and the site will inevitably become a 'special site' then the authority will consult the Environment Agency on whether it is more appropriate for them to carry out the site investigation.

If agreement is reached that the Environment Agency is the most appropriate enforcing authority then a suitable specification will be agreed, which shall include reporting arrangements. Assessment criteria and review triggers will also need to be agreed prior to the investigation.

If both parties agree that the Council is the appropriate enforcing authority then the local authority will continue its assessment as to the status of the site. All decisions will need to be confirmed in writing and any dispute will be referred to The Secretary of State.

If the Council considers that an inspection of the land is necessary, then it will have regard to the following issues:

(a) The implementation of its communication strategy.

The Council's communication team will be advised regarding the requirement for further investigation in order that the needs of the community can be addressed and in order to consider the role of other organisations.

(b) The requirement for any consents/licences

Statutory undertakers and the Environment Agency will be consulted, following the liaison procedures, on the need for any consents and/or licenses.

(c) The need to authorise inspections

The Council will ensure that appropriate persons are authorised to carry out inspections in accordance with Section 108 on the Environment Act 1995. The Council will liaise fully with any neighbouring local authority prior to any investigation of land within their area (section 78X (2)).

(d) Health and safety requirements

The land-owner will be consulted regarding any specific health and safety requirements in relation to their site. The Council will follow its own health and safety protocol, which shall include a health and safety risk assessment for any site investigation work. Contractors will be expected to comply with the Construction Design Management Regulations 1994.

(e) Rights of Access

The Council will endeavour to agree any access arrangements with the appropriate person wherever possible. It will ensure that it gives the occupiers/owners of residential properties at least seven days notice. If access arrangements cannot be agreed then the Council will seek to obtain a warrant under Section 108(6) Schedule 18 of the Environment Act 1995.

(f) The need for any intrusive investigation

An intrusive investigation will only be considered where a pollutant linkage is likely and there shall be a presumption that the interested parties will be notified whenever possible. A specification will be developed prior to any intrusive investigation and the advice of the Environment Agency will be routinely sought.

The Council will also consider whether the proposed works present any risk to the environment or sites of interest. If the Council is in any doubt the appropriate organisation will be consulted prior to any intrusive site investigation. The Council will also consider whether any compensation is payable under Paragraph 6 of Schedule 18 of the Environment Act 1995. Any party with a right to compensation will be notified accordingly.

A record will be made of any investigation undertaken, including the methodology used and the results obtained. Contractors will be appointed in accordance with the Council's Contract and Tendering Procedures Handbook (Ref31).

### **13.4 The Determination**

If the land is determined to be statutory contaminated then the Council will follow the normal notification procedure to secure its remediation (see Chapter 14). It will also consider whether to undertake a more detailed site investigation under a remediation statement or notice. The Council will, however, not use this approach to discharge its requirement to identify any further pollutant linkages.

If the land is not statutorily contaminated then it will be allocated a review trigger. If the land is determined to be just under the threshold then the Council will flag the land accordingly on in its internal records (not the register) and the need for a monitoring programme will be decided with the relevant organisations and individuals.

If the assessment identifies that the site should in fact be considered to be a 'special site' then the Environment Agency will be notified. The Council will then liaise with the Environment Agency regarding the time-scale for determination. If agreement is reached on the status of the site then the site will become the responsibility of the Environment Agency. If agreement cannot be reached then it will be referred to the Secretary of State. The Council will endeavour to ensure that all discussions are in accordance with the Environment Agency Procedural notes 1 and 3 (Ref24).

### **13.5 Transboundary Liaison Between Local Authorities**

The various regional working groups on contaminated provide an existing mechanism for ensuring cross boundary liaison between local authorities on contaminated land issues. The Council is also represented at The North West Regional Assembly, which provides a regional forum for discussing contaminated land issues.

It has been recognised, however, that a notification procedure needs to be developed to deal with site specific issues. If any authority suspects that a trans-boundary pollutant linkage may exist then it will notify its appropriate neighbouring authority within seven working days. If either party considers that urgent action may be required then the notification should take place immediately.

An agreed plan of action will be developed, in consultation with the Environment Agency and any appropriate persons, which shall include the identification of a lead authority who will be responsible determining the status of land. There shall be a presumption that the lead authority shall be the authority in whose area the source is situated unless there is evidence that the linkage is a result of action taken by a third party located in the neighbouring authority. The agreement will also be subject to legal advice.

## **14.0 REMEDIATION**

### **14.1 Introduction**

The successful remediation of a site will be dependent on a number of factors making it impossible to be prescriptive. Issues will, therefore, be addressed on a site-specific basis. The Council is, however, keen to ensure that remediation is achieved following a hierarchy of action with clear success criterion. Any evidence of actual harm and the need for urgent action is dealt with under Chapter 14. The hierarchy of action is detailed in table 14.1.

### **14.2 Scheme Determination**

The onus is on the appropriate persons to develop and submit an appropriate remediation package, which shall include an assessment action, treatment action and monitoring action. The scheme will be determined against the following criteria, having regard to appropriate guidance, particularly Chapter C Part 5 of Circular 02/2000:

- Does it represent best practicable techniques?
- Is another regime appropriate?
- Is it appropriate?
- It is reasonable?
- Is it practical?
- Is it effective?
- Will it be completed over a reasonable time period?
- Is it durable?
- Does it include appropriate validation?
- Is on going monitoring required?
- Can the relevant consents/licences and permissions be obtained?
- Will the proposed actions affect the wider environment, including sensitive locations/ receptors?
- Have the Environment Agency been consulted?
- Have adequate review triggers been built in for dealing with any additional pollutant linkages?

### **14.3 Where Best Practicable Techniques cannot be Reasonably Achieved**

There may be circumstances where it is not possible to achieve the appropriate degree of remediation for every pollutant linkage. The Council will evaluate such cases having regard to available guidance and after seeking the advice of the Environment Agency and where appropriate North Cheshire Health. The decision will also take account of the cost of the remediation against the benefit derived (section C.34-C.38 of Circular 02/2000). If the Council decides that the desired level of remediation is not possible then it will consider the need to keep the situation under review and publish a remediation declaration, which will be included on the register.

### **14.4 Post Remediation**

The Council will not issue any formal remediation certificate relating to the effectiveness of the remediation, as it needs to have regard to the review triggers and the need for any future action. The Council will, however, make an appropriate entry within the register concerning the compliance with any statement or notice.

## 14.5 Actual Harm and Urgent Remediation

The Council will have regard to the possibility of a significant pollutant linkage existing throughout the determination and inspection process. The review triggers outlined in Chapter 16 will also lead to the introduction of the procedures summarised in this Chapter. The procedures will, however, only be followed if it can be undertaken within a timescale that is compatible with the risk.

### Stage 1

The reviewing officer shall assess the likelihood of a significant pollutant linkage existing, which could result in imminent danger of serious harm or serious pollution of controlled waters.

### Stage 2

The key contacts will be notified and the following team established:

#### Internal

Contaminated Land Lead Officer  
Communications Officer  
Engineers  
Solicitor  
Risk Management Officer  
Emergency Planning Officer  
Appropriate Senior Manager  
Estates (if WBC land)

#### External

Environment Agency  
English Nature(if ecological issue).  
North Cheshire Health

### Stage 3

The group will, after they have satisfied themselves that the land falls within the definition of common contaminated land, quantify the risk according to available information and guidance, especially Part 5 of Chapter C of Circular 02/2000, having particular regard to:

- Has significant harm or pollution already occurred and would intervention have no effect.
- The likelihood of serious pollution and or imminent danger of significant harm.
- The nature and importance of the receptor.
- The effects on the receptor and whether they are irreversible.
- The number of receptors likely to be affected.
- The overall environmental risk.

### Stage 4

The group will consider the following:

- Whether the Environment Agency ('special sites') or local authority should lead (non 'special sites').
- Whether to implement the Council's Emergency Plan.
- Whether urgent remediation is required.

## **Stage 5**

In the event of urgent remediation being required the team will endeavour to consult the appropriate person(s) if possible. However, the standard three-month notification procedure is not applicable in such cases.

A decision will be made on whether the lead authority needs to carry out the work themselves to prevent the serious harm and or serious pollution of controlled waters. Such a decision will normally be made if:

- The necessary remediation will not be achieved soon enough if a notice was served.
- The appropriate person(s) cannot readily be identified.
- A remediation notice has been suspended pending an appeal decision.

If action is to be undertaken by the lead authority then that authority will publish a remediation statement describing the remediation action 78 H (7)). The statement will have regard to the overall environmental impact prior to the implementation of any remedial measure and the need to involve other key organisations (e.g. English Heritage).

The decisions regarding the standards of remediation, the relevant exclusions, cost apportionment and cost recovery shall all be made.

## **Stage 6**

If the group decides that no urgent action is required then a suitable record will be made. The site will also be flagged as to its priority for assessment and determination.

## **Stage 7**

All remedial actions will be reviewed/validated and a decision made about the need for any further action.

**Table 14.1: Hierarchy of Remediation**

<b>ACTION</b>	<b>COMMENT</b>
<b>Consultation</b>	The Council will endeavour to reach consensus through early consultation with the appropriate persons on both the reason for determination and the remediation necessary. The Council will ensure that the person(s) are advised of their rights, where possible, at every stage, including any exclusions or exemptions. The onus will, however, rest with the appropriate person to provide information where requested by the Enforcing Authority. Any submitted remediation evidence will be included on the register.
<b>Role of Other Regimes</b>	Regard will be given to the role of other regimes for each linkage before considering remediation options. The assessment will include the identification of any shortfall and the need to take action under Part IIA for certain linkages. If work is to be undertaken under more than one regime then every effort will be made to ensure that they are run on a complementary basis.
<b>Voluntary Action</b>	The Council will pursue the voluntary remediation wherever possible through the development of an agreed remediation statement, which must be supplied to the authority. The authority will advise the person in writing of its assessment of the statement. Any agreed statement will be included on the register. The Council will monitor the progress of remediation under the statement and notify the appropriate person(s) if it is no longer satisfied.
<b>Remediation Notice</b>	If the authority cannot agree a voluntary scheme within a reasonable time period, or the statement is not complied with, then the Council will consider serving a remediation notice (in consultation with the Council solicitor). In making its determination the Council will consider whether it can undertake the works itself under section 78N of The Environment Act 1995. Any service of notice will include grounds of appeal. The appropriate persons will also be notified if the Enforcing Authority determines that a new notice will have to be issued (Section 14 of Annex 2 of Circular 02/2000).
<b>Enforcement</b>	The Council will endeavour to notify the appropriate person(s) before undertaking any enforcement. The Council will in any event follow Local Government Association Enforcement Concordat and its own Enforcement Policy.
<b>Works in Default and Cost Recovery</b>	The Council will follow the cost recovery framework outlined within this Strategy. It will however, look at case specific issues. Consideration will be given to the Council undertaking the work under written agreement in certain cases and in cases requiring urgent action.

## **15.0 COST RECOVERY POLICY**

### **15.1 Introduction**

Warrington Borough Council is committed to the principle of securing remediation through voluntary action. It will, however, seek to recover, in full, all reasonable costs incurred by the authority in the event of the following circumstances:

Remediation undertaken as a direct result of enforcement action (works in default).

Enforcement action will be undertaken in accordance with the Enforcement Concordat (Ref32) and the Public Protection Enforcement Policy (Ref33). It will only be taken when the pursuit of voluntary remediation is no longer appropriate.

Urgent remediation action due to imminent danger of serious harm or serious pollution of controlled waters.

The Council's objectives include the protection of the environment. It may be necessary to intervene on a site-specific basis to deal with actual harm (see Chapter 14). Every attempt will be made, where possible, to consult with all interest parties before taking such action. A Remediation Statement will in any event be included on the Public Register.

Works undertaken by written agreement

When works are undertaken by the Council as part of a written agreement, the Council may seek to recover its costs in accordance with the agreement.

### **15.2 The Determination**

Part IIA of The Environmental Protection Act 1990 (section 78P(1)) allows the enforcing authority to recover reasonable costs. The Council will only seek to recover costs from those persons included within the appropriate liability group, having applied the relevant exclusion tests. Costs will be apportioned in accordance with the guidance set out in Circular 02/2000. The Council will endeavour to advise the possible appropriate persons on any possible exclusion, but in general the person seeking the waiver is expected to initiate the request and to submit all relevant supporting information in support of their application.

In determining whether to pursue cost recovery the Council will have regard to (as a minimum) its corporate cost recovery policy (Ref34), corporate financial regulations (Ref35), and its social inclusion policy (Ref12). Legal opinion will also be sought on the appropriate sections of Circular 02/2000.

In making its decision the Council will endeavour to ensure that it is fair and equitable to all who have to meet the costs including taxpayers. There will, however, be a presumption that the Council will seek to recover all the costs, which would have otherwise been born by a Class A person(s) (The polluter). Particular regard will be given to any financial benefit that the Class A person may have derived from causing or knowingly permitting the contamination.

The Council will have regard to the following circumstances when making its determination on whether to recover full or partial costs:

- Threat of business closure or insolvency and the effect of the local economy (will seek the advice of appropriate Council officers).
- Whether the action will jeopardise the ability of a trust or charity to continue to provide a benefit to the community.
- Social Housing Provision.
- Whether another appropriate person who shares responsibility has not been found (onus on applicant to provide information).

Specific consideration will be applied to Class B persons.

- Regard will be given as to whether the cost of the remediation exceeds the value of the land (taken to be the value of the remediated land on the open market disregarding any blight). The decision will also take into account whether the remediation increases the value of other land from which the class B person would benefit.
- Whether reasonable precautions were taken before acquiring a freehold or leasehold, whether the person was reckless, or whether a risk was taken.

Action will not normally be taken against an owner or occupier of a property when at the time of purchase they could not have known or be reasonably expected to know about the contamination. Any such waiver will have regard to what is reasonable taking into account income, capital and outgoings. If the dwelling was inherited or a gift then the reasonable knowledge test will be applied. The Housing Renewal Grant Regulations 1996 may be applied to inform the decision regarding cost recovery and hardship.

In the event of the Council deciding not to recover the full or partial costs, it will have regard to Section 78H(5) in deciding whether to serve a remediation notice.

### **15.3 Conclusion**

The determination on whether to recover full or partial costs will be taken on a case specific basis in consultation with the interested parties. The above should, therefore, be treated as a guide and specific issues should be raised with the authority direct. Note that consideration may be given to charging for staff time within the cost recovery process.

## **16.0 REVIEW PROCEDURES**

### **16.1 Strategy Review**

The Strategy will be considered as part of the Best Value Review of Environmental Health and Trading Standards in 2001/2002. The Strategy will be reviewed annually as a component of the Services Business Plan in the Environmental Protection and Waste Unit.

### **16.2 Site-Specific Review Triggers**

The status of specific sites will need to be constantly reviewed in order that any new information sources can be taken into account and so that the risk factor associated with a site can be amended accordingly. The Strategy, therefore, needs to be a 'live' document in order to respond to these changes.

The key areas of review have been highlighted in Figure 2.1, but in reality the review process is likely to be such a fundamental part of the Strategy, that it will need be considered at all stages. It is, however, recognised that there are likely to be some specific circumstances, which will prompt the review process. Such circumstances are likely to include the following:

#### **Proposed changes in the use of the land itself, or surrounding land**

A close liaison already exists between the Development Control and Environmental Protection functions of the Council. Indeed, these functions now form part of the wider Environment and Regeneration Department. Land use changes will be monitored through the existing development control process.

#### **Introduction of pathways**

The introduction of a pathway may lead to the creation of a pollutant linkage(s). The Council will monitor its own activities through its internal communication policy on contaminated land. It shall remain the responsibility of third parties to assess any liability resulting from their own actions. The Council will, however, respond to any reasonable request for information using its search service, details on this service can be made available via the Strategy contact.

#### **Flood defence**

The Council has an internal working group looking at flood defence issues, which includes the management of its own assets. Action will be taken following the recommendations of this group.

#### **Unplanned changes, particularly where this increases the risk to human receptors**

There may be occasions when land use changes have not received or needed planning permission. The Council will decide on the most appropriate regime to tackle such issues but there shall be a presumption in favour of Part IIA where actual harm is occurring, or when it is the most expeditious option. The Council will also act on all information received after first assessing its accuracy and completeness. The procedures in Chapter 11 will be followed. In the event of the Council not being the enforcing authority then it will inform and liase with the appropriate authority.

### **Reports of localised health effects, which appear to relate to a particular area of land**

Any possible localised health impact will be referred to North Cheshire Health via their contact. The Council will then agree any action that is necessary to address the situation, including joint communication.

### **Reports from other organisations including members of public**

The Council will act on all information received. It will assess the information and give a clear response within an appropriate timescale depending on the nature of the information received. Any evidence of actual harm will be addressed following the procedures laid down in the Strategy.

### **Changes in knowledge or guidance in relation to a particular contaminant, pathway or receptor**

The Council will keep a computerised database of all site assessments which will be reviewed against any changes in guidance. Any sites just under existing guidance levels will be flagged and regularly reviewed or monitored.

### **Monitoring Results**

All monitoring results undertaken by the Council will be kept on an access database enabling them to be reviewed for trends or against changes in action levels. Elevated monitoring results will be referred to the reviewing officer with the exception of landfill gas results exceeding levels specified in our Emergency Plan. In any such event this plan will be implemented and the Council's duty officer and Emergency Planning officer will be notified accordingly.

### **Notification of potential contamination**

Any notification of potential contamination will be acted upon according to the likely risk and the accuracy of the information received. It is envisaged that the response will include the need for validation testing.

### **Unauthorised access**

Consistent unauthorised access may elevate the status of a site given the introduction of a receptor. The Council will review the security of the site with the owner and the police. If a reasonable degree of site security cannot be maintained then the overall risk status of the site will be reviewed accordingly.

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## Appendix 1

<b>Table A – Categories of Significant Harm</b>	
	<b>Description of harm to that type of receptor that is to be regarded as significant harm</b>
<b>Human beings</b>	<p>Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions.</p> <p>For these purposes, disease is to be taken to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only so far as it is attributable to the effects of a pollutant on the body of the person concerned.</p> <p>This description of significant harm is referred to as a “human health effect”.</p>
<p><b>Any ecological system, or living organism forming part of such a system, within a location which is:</b></p> <p><b>an area notified as an area of special scientific interest under Section 28 of the Wildlife and Countryside Act 1981;</b></p> <p><b>any land declared a national nature reserve under Section 35 of that Act;</b></p> <p><b>any area designated as a marine nature reserve under Section 36 of that Act</b></p> <p><b>an area of special protection for birds, established under Section 3 of that Act;</b></p> <p><b>Any European Site within the meaning of regulation of the Conservation (Natural Habitats etc.) Regulations 1994 (i.e. Special Areas of Conservation and Special Protection Areas);</b></p> <p><b>any candidate Special Areas of Conservation or potential Special Protection Areas given equivalent protection;</b></p> <p><b>Any habitat or site afforded policy protection under para. 13 of Planning Policy Guidance Note 9 (PPG9) on nature conservation (i.e. candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); or</b></p> <p><b>Any nature reserve established under Section 21 of the National Parks and Access to the Countryside Act 1949.</b></p>	<p>For any protected location:</p> <ul style="list-style-type: none"> <li>• harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or</li> <li>• harm which affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location.</li> </ul> <p>In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible with the favourable conservation status of natural habitats at that location or species typically found there.</p> <p>In determining what constitutes such harm, the local authority should have regard to the advice of English Nature and to the requirements of the Conservation (Natural Habitats etc.) Regulations 1994.</p> <p>This description of significant harm is referred to as an “ecological system effect”.</p>
<p><b>Property in the form of:</b></p> <p><b>crops, including timber;</b></p> <p><b>produce grown domestically, or on allotments, for consumption;</b></p> <p><b>livestock</b></p> <p><b>other owned or domesticated animals; or</b></p> <p><b>Wild animals, which are the subject of shooting, or fishing rights.</b></p>	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p> <p>The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>This description of significant harm is referred to as an “animal or crop effect”.</p>
<p><b>Property in the form of buildings.</b></p> <p><b>For this purpose, “building” means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building.</b></p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation.</p> <p>For this purpose, the local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended.</p> <p>Additionally, in the case of a scheduled Ancient Monument, substantial damage should be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.</p> <p>This description of significant harm is referred to as a “building effect”.</p>

(Taken from Statutory Guidance Part IIA)

## Appendix 2

<b>Table B – Significant Possibility of Significant Harm</b>	
<b>Descriptions of Significant Harm (as defined in Table A)</b>	<b>Conditions for there being a Significant Possibility of Significant Harm</b>
<p><b>Human health effects arising from:</b></p> <p><b>the intake of a contaminant, or</b></p> <p><b>Other direct bodily contact with a contaminant.</b></p>	<p>If the amount of the pollutant in the pollutant linkage in question:</p> <ul style="list-style-type: none"> <li>• which a human receptor in that linkage might take in, or</li> <li>• to which such a human might otherwise be exposed,</li> </ul> <p>As a result of the pathway, that linkage would represent an unacceptable risk of intake or direct bodily contact, assessed on the basis of relevant information on the toxicological properties of that pollutant.</p> <p>Such an assessment should take into account:</p> <ul style="list-style-type: none"> <li>• the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question;</li> <li>• the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substances; and</li> <li>• The duration of intake or exposure resulting from the pollutant linkage in question.</li> </ul> <p>The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure.</p> <p>Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.</p>
<p><b>All other human health effects (particularly by way of explosion of fire)</b></p>	<p>If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning:</p> <ul style="list-style-type: none"> <li>• that type of pollutant linkage, or</li> <li>• That type of significant harm arising from other causes.</li> </ul> <p>In making such an assessment, the local authority should take into account the levels of risk which have been judged unacceptable in other similar contexts and should give particular weight to cases where the pollutant linkage might cause significant harm which:</p> <ul style="list-style-type: none"> <li>• would be irreversible or incapable of being treated;</li> <li>• would affect a substantial number of people;</li> <li>• would result from a single incident such as a fire or an explosion; or</li> <li>• would be likely to result from a short-term (that is, less than 24-hour) exposure to the pollutant.</li> </ul>
<p><b>All ecological system effects.</b></p>	<p>If either:</p> <ul style="list-style-type: none"> <li>• significant harm of that description is more likely than not to result from the pollutant linkage in question; or</li> <li>• There is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration.</li> </ul> <p>Any assessment made for these purposes should take into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.</p>
<p><b>All animal and crop effects.</b></p>	<p>If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.</p>
<p><b>All building effects.</b></p>	<p>If significant harm of that description is more likely than not to result from the pollutant linkage in question during the expected economic life of the building (or, in the case of a scheduled Ancient Monument, the foreseeable future), taking into account relevant information for that type of pollutant linkage.</p>

(Taken from Statutory Guidance Part IIA)

## Appendix 3

**Objective 1: To identify unacceptable risks to human health and the environment and to take action on a priority basis.**

Action	Outcomes	Performance Measure	Responsibility/Partners	Date/Target
<b>Preliminary Part I risk prioritisation of sites on the basis of risk from existing information.</b>	Sites of potential contamination are addressed first. Implementation of actual harm procedure if necessary.	Record of site determination.	WBC (lead by Environmental Protection). Environment Agency Appropriate person(s). North Cheshire Health	December 2001
<b>Publish remediation action.</b>	Entry on register if statutory contaminated. Record on database if not statutory contaminated.	Record of site remediation status.	WBC Environment Agency (special sites) Appropriate Persons Relevant consultees	Ongoing
<b>Develop and maintain GIS system and supporting databases.</b>	Contaminated land assessment and management tool	System in place and publication of priority programme.	WBC (Environmental Protection) WBC (GIS Manager)	August 2001 Maintenance ongoing.
<b>Review Building Control/Planning and Waste consultations.</b>	Comment on environmental issues associated with proposal.	Prevention of Contaminated land problems.	WBC (Environmental Protection And Regeneration). Environment Agency.	Ongoing

### Appendix 3

<b>Consult organisations and key community groups.</b>	Consensus building and information provision.	Information received. Customer feedback.	WBC (Environmental Protection).	June 2001
<b>Liaison with External partners.</b>	Information exchange and advice. Consensus.	Liaison outcomes	All partners	Ongoing
<b>Review of boundary changes and land transactions.</b>	Identification of any new sites/liability issues.	Identification of any new sites.	WBC (Estates and Environmental Protection). Neighbouring authorities.	Ongoing.

Objective 2: Encourage Voluntary Remediation

Action	Outcomes	Performance Measure	Responsibility/Partners	Date/Target
<b>Consult the possible appropriate persons at the earliest opportunity.</b>	Promotion of discussion and information exchange.	Date of first notification.	WBC (Environmental Protection and Legal).	Ongoing.
<b>Produce publicity leaflet.</b>	Increased awareness of contaminated land issues.	Leaflet publication	WBC (Environmental Protection).	September 2001
<b>Follow remediation hierarchy</b>	Remediation action taken according to procedure.	Compliance with procedure.	WBC (Environmental Protection).	Ongoing.
<b>Advise appropriate person in writing if council cannot support voluntary remediation.</b>	Clear Enforcement position.	Production of letter.	WBC (Environmental Protection).	Ongoing.

## Appendix 3

**Objective 3: To promote and assist in Urban Regeneration by addressing perceived or actual blight.**

Action	Outcome	Performance Measure	Responsibility/Partners	Date/Target
<b>Determine Site Status.</b>	Knowledge of Environmental Status.	Site Determination.	WBC (Relevant Service Areas).	Ongoing, based on site priority report.
<b>Review proposed developments and advise on site status.</b>	Ensure that site is suitable for use.	Site Validation. Number of Planning consultations.	WBC (Environmental Protection and Regeneration).	Ongoing.
<b>Manage Council Owned Sites and ensure liaison on community site restoration and landscaping schemes.</b>	Ensure that policy areas are complementary with regard to site status.	Successful site restoration.	WBC (Environmental Protection and Regeneration). External Agencies and Landowners. Community Groups. Mersey Forest.	Ongoing
<b>Support the Urban potential study and provide advice.</b>	Promotion of Urban Regeneration.	Performance of study objectives.	WBC (Relevant Service Areas). NWRDA.	Ongoing.

## Appendix 3

**Objective 4: To apportion liability in a fair and reasonable manner.**

Action	Outcomes	Performance Measure	Responsibility/Partners	Date/Target
<b>Ensure Early Consultation whenever Possible including possible exclusions.</b>	Appropriate persons are given a reasonable time to provide information.	Date of first contact. Percentage of Voluntary Remediation Schemes.	WBC (Environmental Protection and Legal).	Ongoing.
<b>Produce report for Appropriate Persons on the Liability Test assessments.</b>	Clear liability statement for discussion.	Production of reports.	WBC (Environmental Protection and Legal).	Ongoing.
<b>Act on information received.</b>	Correct apportionment of liability costs.	Record on information and any appeals.	WBC (Environmental Protection and Legal).	Ongoing.
<b>Follow Enforcement and Cost recovery policies.</b>	Clear procedures.	Record of any appeals.	WBC (Environmental Protection, Finance, Legal and Members).	Ongoing.

## Appendix 3

### Objective 5: Manage Council Owned Sites.

Action	Outcome	Performance Measure	Responsibility/Partners	Date/Target
<b>Priority Assessment of WDA sites.</b>	Actual status of sites known.	Production of report on Environmental Assessment of Assets.	WBC (Environmental Protection and Regeneration). WBC Property Services.	December 2001
<b>Digitisation of paper land terrier system and subsequent assessment.</b>	Assets identified. GIS overlay.	Production of report.	WBC Property Services	Digitisation- March 2002 Assessment- Ongoing
<b>Internal communication through the Asset Management Officer Working Group.</b>	Complementary Action.	Effective communication and Strategy delivery.	WBC (All relevant service areas).	Ongoing
<b>Review Existing Environmental Monitoring Programme.</b>	Ensure that sites continue to be assessed on a priority basis.	Production of review report.	WBC (Environmental Protection).	August 2001
<b>Production of initial report on Environmental Assessment of Assets.</b>	Clear position statement.	Production of report on Environmental Assessment of Assets	WBC (All relevant service areas). Members. Community Groups. Environment Agency.	December 2001
<b>Review of land transfers and transactions</b>	Protection of Council Interests.	Risk Management Assessments.	WBC (All relevant service areas).	Ongoing
<b>Secure and Manage Supplementary Credit Approvals.</b>	Funding of site Assessments and Remediation.	Site Remediation, compliance with internal audit. Expenditure to deadline and budget	WBC (Environmental Protection and Finance).	Ongoing.

## Appendix 3

### Objective 6: To manage Information and to Produce Suitable Information Outputs.

Action	Outcome	Performance Measure	Responsibility/Partner	Date/Target
<b>Produce Report on site priority assessments.</b>	Clear indication of which sites are considered to be priorities.	Production of quarterly reports.	WBC (Environmental Protection).	Each Quarter.
<b>Review Historic Land Use Search Service.</b>	Improved quality of search response.	Customer feedback.	WBC (Environmental Protection).	December 2001
<b>Maintain the Public Register.</b>	Assists corporate search response. Provides public information.	Customer Feedback.	WBC (Environmental Protection).	Ongoing
<b>Provide Information to the Environment Agency for the State of the Environment Report.</b>	Publication of report.	Publication of report.	WBC (Environmental Protection). Environment Agency.	To be determined

## Appendix 4

### Sources of Information

Data Set	Source	Status
Human Health	North Cheshire Health	Sites specific
Pipelines (gas, oil & ethane – existing and proposed)	Emergency Planning / WBC	Acquired - assessable through GIS
Potentially Contaminated Land	Environmental Protection / WBC	Acquired - assessable through GIS
COMAH Sites	Warrington B C / Planning Section	Acquired - assessable through GIS
Detailed Information on the Extent of Coal Mining	The Coal Authority	Required – Information to be gathered
IPC Part A	The Environment Agency	Acquired - assessable through GIS
IPC Part B	Environmental Protection / WBC	Acquired - assessable through GIS
Landfill Sites	The Environment Agency	Acquired - assessable through GIS
Underground Tankers/Storage tanks	Site Specific	N/A
Waste transfer, treatment sites; location of registered radioactive substances	The Environment Agency	Acquired - assessable through GIS
National Land Use Database	DEFRA NLUD Web Site	To be viewed when appropriate
Historical Mapping	Ordnance Survey	Required – Awaiting information
Site Investigation Reports	Site Specific	N/A
Environment Agency – Site Specific Information	Site Specific	N/A
Aerial Photographs	UK Perspectives	Required – Awaiting information
Trade Directories	Kelly's etc.	To be viewed when appropriate
External Organisations	Various	To be viewed when appropriate
Surrounding Authorities	Wigan etc.	To be viewed/acquired when appropriate
Internal Departments	Various	To be viewed/acquired when appropriate

## Appendix 4

### Information on Pathways

Data Set	Source	Status
British Geological Survey Solid, Drift and Artificial Maps	BGS	Acquired – assessable through GIS
Mine Works:- Coal/Salt	Coal Authority / Cheshire County Council	Partially acquired
Sewers	NWW Service Information	Acquired - accessible through GIS
Groundwater Protection Zones	Environment Agency Web Site	Acquired – accessible through GIS
Groundwater vulnerability maps	Stationary Office	Required – Awaiting Information

### Information on Receptors

Data Set	Source	Status
Agricultural Land Classification	DEFRA	Acquired - accessible through GIS
LEA Schools	Education / WBC	Acquired - accessible through GIS
Nurseries	Environmental Health / WBC	Required – To be place on GIS System
Tree Preservation Orders	Landscape / WBC	Acquired - accessible through GIS
SSSI	English Nature	Acquired - accessible through GIS
Site of Interest for Nature Conservation		Acquired - accessible through GIS
Special Areas of Conservation (SACs)		Acquired - accessible through GIS
Conservation Areas (SINC's)		Acquired - accessible through GIS
Woodlands	Landscape / WBC	Acquired - accessible through GIS
Ancient Woodlands	Landscape / WBC	Acquired - accessible through GIS
Local Plan	Warrington Borough Council	Acquired - accessible through GIS
Green Belt	Planning / WBC	Acquired - accessible through GIS
River Quality	The Environment Agency	Site specific information
Licensed water abstraction	Environmental Agency	Acquired - accessible through GIS
Human Health	North Cheshire Health	Site specific

## Appendix 4

### Information on Receptors (continued)

Data Set	Source	Status
Scheduled Ancient Monuments	Cheshire County Council	Acquired - accessible through GIS
Residential Areas	Planning / WBC	Required - Awaiting Information
Current Land Use	UDP / WBC	Required - Awaiting Information
Ancient monument's	Cheshire County Council	Required - Awaiting Information
Licensed-exempt water sources	Environmental Health / WBC	Acquired - accessible through GIS

### Information in General

Data Set	Source	Status
Flood plains	Environment Agency	Acquired - accessible through GIS
Population Distribution	Warrington Borough Council	Required - Awaiting Information
Community houses, flats and centres	Planning / WBC	Acquired - accessible through GIS

**GLOSSARY**

<b>Appropriate person (s)</b>	Any person who is, determined in accordance with Section 78F..., to bear responsibility for anything which is to be done by way of remediation
<b>Contaminant</b>	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.
<b>Contaminated Land</b>	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 controlled waters is being, or is likely to be, caused.
<b>Controlled Waters</b>	Defined by reference to Part II (Section 104) of the Water Resources Act 1998; this embraces territorial and coastal waters, inland fresh waters, and ground waters.
<b>Current Use</b>	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.
<b>Drift Deposit</b>	An unconsolidated superficial sediment.
<b>Geographical Information System</b>	A data handling system and analysis system based on sets of data distributed spatially in two dimensions. The data sets maybe map-orientated or image orientated.
<b>Harm</b>	Harm to the health of living organisms or other interference with the

## Appendix 5

	ecological systems of which they form part and, in the case of man, includes harm to his property.
<b>Pathway</b>	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 exposed or affected.
<b>Pollutant</b>	A contaminant which forms part of the pollutant linkage.
<b>Pollutant linkage</b>	The relationship between a contaminant, a pathway and a receptor.
<b>Pollution of controlled waters</b>	The entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter.
<b>Possibility of significant harm</b>	A measure of the probability, or frequency, of the occurrence of circumstances which would lead to significant harm being caused.
<b>Receptor</b>	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 Table A (see Appendix 2) 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.
<b>Risk</b>	The combination of: (a) the probability, or frequency, of occurrence of a defined hazard (for example, exposure to a property or a substance with the potential to cause harm); and (b) the magnitude (including the seriousness) of the consequences.
<b>Scheduled Ancient Monument</b>	Nationally important sites and monuments which have been given legal protection by being placed on a list, or 'schedule', by the Secretary of State for Culture, Media and Sport. The Ancient Monuments and Archaeological Areas Act 1979 supports a formal system of <i>Scheduled Monument Consent</i> for any work to a designated monument.  The word 'monument' covers the whole range of archaeological sites. Scheduled monuments are not always ancient, or visible above ground. There are over 200 classes of monuments on the schedule, and they range from prehistoric standing stones and burial mounds, through the many types of medieval site – castles, monasteries, abandoned farmsteads and villages – to the more recent results of human activity, such as collieries and wartime pillboxes.
<b>Significant harm</b>	Means any harm which is determined to be significant in accordance with Chapter A of the Statutory Guidance (that is, it meets one of the descriptions

## Appendix 5

	of the types of harm in the second column of Table A – see Appendix 1 ).
<b>Significant pollutant linkage</b>	A pollutant linkage which forms the basis for a determination that a piece of land is contaminated land.
<b>Significant possibility of significant harm</b>	A possibility of significant harm being caused which is determined to be significant in accordance with Chapter A of the Statutory Guidance (see: Table B in Appendix 2).
<b>Special site</b>	<p>Land is required to be designated as a special site where it meets certain prescribed descriptions contained in Regulations 2 and 3 of the Contaminated Land (England) Regulations 2000, together with Schedule 1 of those Regulations.</p> <p>The effect of the designation of any contaminated land as a special site is that the Environment Agency, rather than the local authority, becomes the enforcing authority for the land.</p>
<b>Substance</b>	Any natural or artificial substance, whether solid or liquid in form or in the form of a gas or vapour.

**Notes:**