

Report of: Environmental Health Business Manager

To: Executive Board

Date: 8<sup>th</sup> October 2007

Item No:

Title of Report : The Council's new Roles and Responsibilities for  
Radioactive Contaminated Land



### Summary and Recommendations



**Purpose of report:** To inform the Council of the implications of the extension  
Part IIA of the Environmental Protection Act 1990 to include radioactive  
contamination and to request approval for a proposed approach.



**Key decision:** No

**Portfolio Holder:** Councillor Jean Fooks

**Scrutiny Responsibility:** Cleaner City



**Ward(s) affected:** All

#### **Report Approved by**



Portfolio Holder- Councillor Fooks  
Environmental Health Business Manager – John Copley



Legal – Jeremy Thomas  
Finance – Sarah Fogden



**Policy Framework:** None

#### **Recommendation(s):**



a. To agree that proactive investigation work should not be initiated until an appropriate notification is received and budgetary provision is in place.  
b. To recommend that a contingency figure of £50K be allocated from the reserves to meet the cost of survey and assessment work where this is unavoidable.



## Historical Picture

1. Radioactive substances are used today in a wide range of activities, such as hospitals and education establishments. They are subject to statutory regulation enabling their use and disposal to be tightly controlled so reducing the risk of causing radioactive land contamination.
2. However, until the implementation of the Radioactive Substances Act 1960 there was little or no regulation of radioactive substances in the UK. This lack of regulation meant that some sites of particular industries using radioactive substance became contaminated. The introduction of the Act led to control over the use and disposal of radioactive substances for the first time. It has also enabled the location and condition of some of these old sites to be identified and managed. In some cases however this information has been lost by private industry and government agencies.



## Current Legislative Framework

3. In 2000, the Environmental Protection Act 1990 Part 2A placed a duty on Local Authorities to identify contaminated land in England and Wales. At the time, consideration of radioactive contaminated land was specifically excluded from the new regime. However, due to certain requirements of Directive 96/29EURATOM (referred to as the Basic Safety Standards Directive), in 2006 the Part 2A regime has now been extended to include radioactive contaminated land.
4. The extension calls for radioactive contaminated land to be identified and if necessary remediated. Its specific purpose is to deal with circumstances where the radioactivity is the result of a past practice, or work activity or the after-effects of a radiological emergency. It does not apply to:-
  1. Radon gas.
  2. Risks arising from a change in use of the land that requires planning permission. These risks are dealt with under the Town and Country Planning system.
  3. Nuclear licensed sites.
  4. Radioactive pollution of controlled waters or the environment.

## Implications

5. The extended regime places a duty on each local authority to inspect land for radioactive contamination, where there are reasonable grounds to do so. This means that a local authority is unlikely to inspect land unless it receives relevant information (Eg. from the Environment Agency) relating to the former historical land use or is aware of levels of contamination present, or where there has been a radiological emergency. The authority would need to be fairly certain of finding radioactive contamination before it would proceed with inspection.

6. Where a radioactive contaminated site requires investigation it is the duty of the Local Authority to carry out the initial inspection and sampling but where the result indicate the need for further intrusive investigation, the Environment Agency will carry out this work on behalf of the Local Authority. However it remains the responsibility of the Local Authority to determine the land as radioactive before handing over to the Environment Agency to deal with as the regulator for Special Sites.

### **Local Picture**

7. Environmental Health has already gathered substantial historical land use information and identified 971 sites of 'potential concern' with regard to general contamination. Site radioactivity was excluded from the legislation at that time, so no data was obtained with regard to potential sites. It is known that certain industry processes could cause radioactive land pollution, such as metal refining industries, Ministry of Defence Land and landfill sites, all of which occurred in Oxford.
8. However, since the register was compiled Environmental Health has not received and does not hold any relevant information that indicates that there is a potentially radioactive contaminated site in Oxford. Therefore in accordance with DEFRA and the Environment Agency guidance Environmental Health does not propose carrying out any proactive radioactive contaminated land inspections under this extended regime unless new information emerges, or an incident occurs which gives reasonable grounds for believing land to be radioactive contaminated land.

### **Financial Implications**

9. If such a situation were to occur it is likely that Environmental Health will look to appointing specialists in this field to carry out the investigation so that a subsequent assessment can be made. As a guide, whilst the cost of investigation will vary according to the size of a site, it would probably be in excess of £25,000 for a 2 hectare site. This will require specific, additional funding as Environmental Health currently has no budget for contaminated land assessment work. Remediation costs generally do not fall to the Local Authority, although they are generally measured in millions of pounds, depending on the size of the site.

### **Liability**

10. Council owes a duty of care when exercising its powers under the contaminated land regime and has an obligation to investigate a site where it receives relevant information giving reasonable grounds to do so. If the Council were not to act upon relevant information in its possession it may be at risk of claims for loss or damage arising out of

failing to carry out inspections of suspected contaminated land. This risk is not insured.

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**Background papers:** None

