

Chapter 5 – Liaison and Communication

The systematic identification of land throughout the Borough will be complex and time consuming. A detailed DeskTop study followed by a Risk Assessment approach will take up to five years to complete.

In order to fully document and assess the land in the Borough it is vital that communication at ALL levels is undertaken. This requires effective collaboration and liaison with other bodies.

The Council understands that sensitive land contamination issues requires skills in listening, and knowing how to listen, and to be seen to listen, act and respond appropriately. It is vital to the whole process that the most effective communication is a two way process that respects the views of all participants.

5.1 – Statutory Consultees

The Guidance specifies a number of Statutory Consultees. They are:

- Environment Agency
- English Nature
- English Heritage
- Minister of Agriculture, Fisheries and Food
- Food Standards Agency
- London Development Agency
- Greater London Authority.

The Strategy will be communicated to them, and any comments and observations noted. Changes to the Strategy will be made if required.

The initial consultation with the EA will be made through their Hatfield offices in Hertfordshire. The contact names there are Mr Alistair Norton or Ms Nicola Ingrey.

See Appendix E for full list.

5.2 – Non-statutory consultees

There is great scope for members of the public, businesses and voluntary organisations to have an important role in identifying and dealing with potentially contaminated land in the Borough.

For example, consultation has been an on-going process for the last five years with the Barking Reach development as it has generated a lot of local interest and debate.

It is proposed to set up an effective communication strategy to deal with the issue of contaminated land in the Borough. The following table is a summary of the communication processes planned. It shows how the Council will communicate the Strategy and any further works that follow on from it.

Type of communication	Advantages	Disadvantages	Notes
Steering Group and Working Party	Liaison with all Council Departments to disseminate best practice and achieve consistency throughout the Council	Views and priorities may differ.	Already set up and formulating Policy.
Focus Groups	Opportunity to learn about concerns and “test the water.” Works best with select target audience. Consider setting up Groups from various backgrounds e.g. local businesses etc.	Interested parties may need to be selected carefully to ensure they are representative. Response can be shaped by questions asked.	Need to conduct at least 2 focus groups to have confidence in the output. Need to use a skilled facilitator.
Media Media briefing Telephone responses Press releases	Gets your message across to key journalists, and enables you to take control of the issue and establish yourself as a key information source.	Proactive media management gives no guarantee of balanced coverage. Non-media stakeholders should not learn about an issue first in the media.	Always use Public Relations Dept. to take professional advice. Never rely just on media briefings. Always engage with key stakeholders directly.
Open Day Allows interested parties to find out about issues and at their own pace.	Fosters small group and one-to-one discussions. Allows vivid presentation of issues and information. Builds credibility.	Potentially difficult to document public input. Staff intensive.	Be prepared for a crowd. Encourages people to comment. Provides feedback mechanisms.
Briefings Regular meetings to inform and learn reactions.	Control of information. Similar briefings can be re-used for different groups.	Some people may be hostile. Audience may feel unable to express views/concerns.	Simple, accessible information – not overly technical. Provide time/mechanisms for feedback and discussions.
Public Information material Factsheets Newsletters e.g. Monthly B&D “Citizen.” Brochures Briefing notes Display	Can reach target audience. Encourage written response if comment form is enclosed.	Only as effective as the mailing list. No guarantee that materials will be read.	Keep it simple, brief and accessible. Use visual material. Include a pre-paid envelope. Q&A’s work well. Could be left in libraries, schools or other public facilities for wider access.
Website	Has a broad approach. Interactive. Can hold a lot of information/visuals.	Potentially limited to a targeted audience.	Can use materials that are already prepared. Make sure it is kept up to date. Make sure somebody responds to e-mail promptly.

The following list details some of the non-statutory Consultees the Council will be sending a copy of the draft Strategy to for comment:

- London Boroughs of Newham, Redbridge and Havering.
- London Wildlife Trust
- Newham Heritage Service
- Port of London Authority
- Barking and Dagenham Chamber of Commerce

- Major industrial premises in the Borough.
(See Appendix E for full details.)

5.3 – Communicating with owners, occupiers and other interested parties.

Under the powers conferred on the Council by the Part IIA legislation the Borough has extensive legal powers to deal with contamination.

However the Council's approach to its regulatory duties will be to seek voluntary action before taking enforcement action. This will be done by approaching land owners/occupiers to effect a satisfactory remediation of contaminated land. The regulations provide an incentive to undertake voluntary action. It should be noted that materials that require disposal as a result of voluntary remediation will be exempt from landfill taxes.

This approach requires effective communication with owners, occupiers and other interested parties. The Council will – through the Steering Group and Working Party – be acting as a contact point within the authority on contaminated land issues. It will make sure that all interested parties are kept informed at each stage of any investigations; regardless of whether there is a formal designation of contaminated land or not.

5.4 – Designation of contaminated land.

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

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

Formal notification of designation of Contaminated land are required to be forwarded to the Environment Agency.

Serving a Remediation Notice

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

Should an urgent designation of contaminated land be required, these steps will be observed as far as practicable although some deviation from the timescales may be required, subject to legal advice. (See Appendix C for Legal Notices and Precedents.)

5.5 – Powers of Entry

Under Section 108(6) of the Environment Act, the Council has the following powers:

- Enter premises
- Take statements and samples
- Request copies of environmental reports.

If necessary the Council will use the above powers to fully evaluate the state of any land in the Borough in its investigations either as a result of the DeskTop study or the Risk Assessment mechanism. A designated Officer/s will be appointed under Section 108.

In addition the Council has powers to obtain information as to land ownership under the Local Government (Miscellaneous Provisions) Act 1976 Section 16.

5.6 – Enforcement Action

As detailed previously in Chapter 4.1.2 and documented in Appendix D the Council has an enforcement concordat to ensure consistent, fair, and transparent practices are used when taking enforcement action. Contaminated land investigations will be carried out in accordance with this policy.

5.7 – Risk Communication

The complex nature of contaminated land issues does not lend itself to easy explanation to the layperson. The Communication Strategy documented in 5.2 will hopefully enable an effective method of risk communication to all interested parties.

The regulations grant only limited powers to the Council to deal with materials present in, on or under the ground. Many members of the public believe that any material that is not naturally present in the ground should be removed, especially if it is in the vicinity of their own home. It is critical to explain this can only be done where there is a risk of significant harm, and it is expected that some members of the public will have difficulty accepting this. The issue of “sustainable development” will also have a role to play in this as well.

5.8 – Provision of information to the Environment Agency

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

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

As the Council is the lead regulator on contaminated land, with the EA regulating only some categories of sites, the EA’s Annual Report will clearly be reliant on information provided by local authorities. A Memorandum of Understanding has

been drawn up between the EA and the Local Government Association that describes how information will be exchanged between the Local Authority and the EA. The Council will therefore provide information to the EA (as it already does) following the guidelines agreed through this national forum.

The Council is also required to provide information to the EA whenever a site is designated as contaminated land, and whenever a Remediation Notice, statement or declaration is issued or agreed. The EA has provided standard forms allowing this information to be provided in a consistent format and the Council will adopt these to fulfil its reporting requirements. The "Register" will have these standard forms incorporated on to it.

5.9 – Data Handling and Access to Information

The Council is required by law to produce this contaminated land strategy and to formally publish it by July 2001. Subsequently it must maintain a register of regulatory action taken under Part IIA, which must be made available for public inspection at all reasonable times. (See Chapter 4.1.2)

- **Environmental Information Regulations 1992**

Implementation of the Strategy will result in significant volumes of data, which will be held on computer databases and GIS as well as on paper. There is no statutory obligation to disclose this information, therefore the Council will comply with the requirements of the Environmental Information Regulations when dealing with requests for disclosure.

These Regulations require local authorities to make any environmental information they hold available upon request, subject to certain exemptions. These are complex but it would be likely that the Council will have to respond to requests for information on land it has identified as part of, for example, the inspection of the Borough.

Listed below are broadly the exemptions to the right of environmental information. In all circumstances where there is doubt the Councils Legal Department will be consulted:

- Where held for judicial purposes.
- Where disclosure would affect legal proceedings.
- Where disclosure would affect international relations, national defence or public security.
- Where disclosure would affect the confidentiality of deliberations by a relevant person, or the confidentiality of commercially sensitive matters.
- Where it would involve the supply of a document or record which is still in the course of completion.
- Where the information is not accessible.

"Information" for the purposes of the Regulations includes records, registers, reports, returns and information held on computer.

It has been suggested that information held as a result of the Council's initial inspection of the Borough, could be classified as "a record which is in the course of completion", for the purposes of the Regulations, and therefore not be disclosed. Whilst this interpretation is appealing, it should be understood that sites should not be so identified unless there are sound reasons, based on scientific judgement, that a pollutant linkage may exist. Also once the preliminary inspection of the Borough has commenced, each assessment about each and every site, could constitute a, "record" in itself.

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

Requests for information will therefore be dealt with promptly and no later than 28 days after they are made. A minimum charge of £30.00 will be made for the supply of information in accordance with the Regulations. Where the Council must refuse a request for any of the reasons stated in the Regulations it will provide details of the reasons in writing at no cost to the applicant.

- **The Data Protection Act 1998**

The Data Protection Act applies to all personal data that is processed automatically, it does not apply to data processed manually. The Act seeks to give some protection to persons (known as data subjects) in respect of three potential dangers:

- The use of personal information that is inaccurate, incomplete or irrelevant.
- The possibility of access to personal information by unauthorised persons.
- The use of personal information in a context or for a purpose other than that for which the information is collected.

Personal data is defined as data consisting of information, which relates to a data subject who can be identified from the information, or from that and other information in the possession of the data user (the Council). Every individual member of the public can be considered a data subject, there is no age limit.

It should be noted that just about all information held on computers is considered as being "processed automatically", for the purposes of the Act. Therefore should the Council be unsure of the legality of maintaining data on a computer it will keep a paper record only.

The implications of holding information relating to the condition of potentially polluted property, and the persons associated with that property and pollution, could be significant. The matter will therefore be considered in detail with the Councils Legal Department and System Development Officer.