

**Wigan Council
Contaminated Land Inspection Strategy
2015 – 2020**



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1. Introduction

Over the centuries the Borough of Wigan has played its part in the country's economic growth. Coal mining, textiles and heavy engineering once dominated the area providing employment to most of its population. However 'progress' and a change in the economic climate lead to a decline of these 'traditional' industrial processes leaving a legacy of empty mill buildings, slag heaps and derelict land.

Whilst much has been done over the years to stimulate the regeneration of the Borough both in terms of employment and economic wellbeing, reclamation of derelict land and re-development of 'brown field sites', the issue of contaminated land had never been effectively tackled in its own right. It was not until the early 1990's that the government proposed a regime of identifying contaminated land (Environmental Protection Act 1990, s143 registers), however fear of blight and lack of technical and scientific guidance prevented the legislation from being enacted at this time.

1.2 The contaminated land regime

New regulations came into force on 1st April 2000 (Environmental Protection Act 1990; Part IIA, hereafter referred to as Part 2A) requiring local authorities to inspect land in their area from time to time for the purpose of identifying contaminated land.

The Secretary of State issued revised statutory guidance to local authorities on the implementation of Part 2A in England in 2012. This Statutory Guidance requires local authorities to take a 'strategic approach' in inspecting their areas and to decide and publish this in a written strategy.

1.3 Contaminated land strategy review

This document reviews and replaces Wigan Council's original Contaminated Land Inspection Strategy, which was first published in July 2001. It details Wigan Council's progress to date in tackling contaminated land, the determinations made to date and the subsequent successful remediation of those sites. It also reaffirms Wigan Council's intended approach to the fulfilment of its statutory duties going forward, taking into account important changes in Statutory Guidance, National Policy, Council Policy and Structure and in the science and policy issues that lie behind the risk assessment of potentially contaminated land.

This document is Wigan Council's Contaminated Land Strategy 2015 to 2020 and is available on the Council's web site at www.wigan.gov.uk.

2. Legislative Context and National Policy

The Government has established policies and legal framework's aimed at minimising the future incidence of contaminated land. This ensures that appropriate action is taken to deal with existing contamination where it poses unacceptable risks to human health or the environment; and encourages the reclamation and recycling of 'brown field' land to bring it back into beneficial use.

The Government's commitment to the environmental principles of 'sustainable development' and the 'polluter pays principle', requires that existing contamination which poses a threat to human health or to the environment is controlled and treated within the 'suitable for use' approach, ensuring that land is suitable for its current use or intended future use if planning permission has been granted.

In the context of sustainable development, environmental and economic policy areas are key considerations in developing this Contaminated Land Inspection Strategy because they:

- ensure unacceptable risks to human health or to the environment are reviewed; ensuring a cleaner and healthier environment for local people and wildlife;
- encourage the prudent use of land and social resources; and
- ensure that the cost burdens of undertaking remediation are proportionate, manageable and economically sustainable.

2.1 Other regimes

In addition to Part 2A there are a number of existing regulatory regimes which will continue to address and deal with land contamination issues.

'Land affected by contamination', or the possibility of it, is a material planning consideration and development or redevelopment during the planning or building control processes will continue to be the primary mechanism for ensuring remediation of contaminated sites within Wigan. This means that the Local Planning Authority (LPA) has to consider the potential implications of contamination both when it is developing Local Plans and when it is considering individual applications for planning permission.

For all new developments, it will be the responsibility of the developer to carry out any necessary site assessment and remediation. In most cases, the enforcement of any remediation requirements will be through planning conditions and building control, rather than through a remediation notice issued under Part 2A.

Further details of planning policy in relation to land contamination can be found at paragraphs 120 - 121 of The National Planning Policy Framework (NPPF) (ISBN 9781409834137), available at www.gov.uk.

In addition to the planning system, Building Regulations also require measures to be taken to protect new buildings, and their future occupants, from the effects of contamination. “Approved Document Part C (Site Preparation and Resistance to Moisture)” gives guidance on these requirements. (Available at www.planningportal.co.uk, ISBN: 978 1 85946 509 7).

Through the provisions of the Environmental Damage (Prevention and Remediation) Regulations, Integrated Pollution Prevention and Control (IPPC) and Environmental Permitting regimes there are powers to deal with land contamination resulting from breaches of permits, authorisations and licenses.

The Water Resources Act 1991, which gives the Environment Agency (EA) the power to serve a Works Notice where pollution of controlled waters is occurring, can also be applied to deal with certain cases of water pollution not covered by Part 2A.

The EA also has a supporting role in respect of contaminated land under Part IIA, including assisting Local Authorities with site-specific guidance, particularly in relation to water pollution. The EA acts as the enforcing authority for “Special Sites”. The EA also has a duty to prepare periodic reports on the state of contaminated land in England

Special Sites are defined in full in the Contaminated Land (England) Regulations 2006. These are sites which meet the definition of contaminated land **and** fall within one of the descriptions given in the Regulations, which include:

- certain water pollution cases
- land owned by the Ministry of Defence
- all radioactive contaminated land
- industrial cases
 - waste acid tar lagoons
 - oil refining
 - explosives
 - certain IPPC sites
 - nuclear sites

Regulation 2(2) of the Contaminated Land (England)(Amendment) Regulations 2012 amends the circumstances set out in regulation 3 (Pollution of Controlled Waters) of the 2006 Regulations in which contaminated land affecting controlled waters is required to be designated as a Special Site.

It is the Government’s intention that Part 2A should be complementary to these existing regulatory regimes. Remediation of contaminated land should be enforced preferentially through these means, with enforcement through Part 2A only when no appropriate alternative solution exists.

2.3 Regulation of Part 2A

Local authorities are the primary regulators under Part 2A. Their main duties are:

- to prepare and publish a strategy for inspecting their area for Contaminated Land;
- to implement the Strategy;
- to determine which sites meet the definition of Contaminated Land, and whether such sites should be designated as Special Sites;
- to make sure appropriate remediation of Contaminated Land takes place;
- to maintain a Public Register of Part 2A regulatory action.

2.4 Objectives of the contaminated land regime

The key objectives of the Government's policy on contaminated land and the Part 2A regime are:

- (a) To identify and remove unacceptable risks to human health and the environment;
- (b) To seek to ensure that contaminated land is made suitable for its current use; and
- (c) To ensure that the burdens faced by individuals, companies and society as a whole are proportionate, manageable and compatible with the principles of sustainable development.

The Government considers the most effective way of delivering these objectives to be through the application of the "suitable use" approach. This recognises how risks presented by land contamination vary depending on what the land is used for, as well as the environmental setting.

The main element of the "suitable for use" approach is to ensure that where unacceptable risks to human health or the environment are identified, remediation requirements should be set on the basis of the land's current use or its intended future use if planning permission has been granted as well as the circumstances of the land. Risks will therefore always need to be assessed on a site-specific basis.

The Government requires that a balance between precaution and over-precaution be struck to ensure that any necessary Part 2A intervention is likely to achieve a net benefit.

2.5 What is contaminated land?

Part 2A defines non radioactive 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 significant possibility of such harm being caused: or
- (b) significant pollution of controlled waters is being caused or there is significant possibility of such pollution being caused”

and radioactive 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) harm is being caused; or
- (b) there is a significant possibility of such harm being caused.

Any land meeting either of these definitions will hereafter be referred to as Contaminated Land. The terms “SIGNIFICANT HARM”, “HARM”, “SIGNIFICANT POSSIBILITY” and “SIGNIFICANT POLLUTION OF CONTROLLED WATERS” are all defined in the 2012 Statutory Guidance.

The definition reflects the “suitable for use approach” and is underpinned by the principles of risk assessment, where risk is a combination of two elements:

- (a) probability (how likely is it that something will happen?)
- (b) magnitude of the consequences (if it does happen, how serious will it be?)

This means that before a site can be classed as Contaminated Land, the contamination must have, or be very likely to have, a detrimental impact on human health or the environment.

It is important to realise that a site will NOT meet the definition of Contaminated Land just because contamination is present.

Identifying Contaminated Land – Contaminant Linkages

In line with established approaches to risk assessment, Part 2A requires that the first step in determining whether a site is Contaminated Land is to identify “contaminant linkages” associated with that land.

A **CONTAMINANT LINKAGE** is a connection between a contaminant and a receptor by means of a pathway.



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

A 'pathway' is a route by which a receptor is or might be affected by a contaminant.

For non-radioactive contamination, a 'receptor' is something that could be adversely affected by a contaminant, for example a person, an organism, an ecosystem, property, or controlled waters.

Under the radioactive contaminated land regime, a receptor is limited to human beings only.

A contaminant linkage, and hence a risk to the receptor from the contaminant, can only exist if all three elements are present. A site cannot be considered as possible Contaminated Land unless at least one contaminant linkage is present.

The next step in deciding whether a site is Contaminated Land is to determine whether the contaminant linkage is "significant", This means demonstrating that it:

- Is resulting in significant harm for non-radioactive contamination (or harm for radioactive contamination) being caused to the receptor in the contaminant linkage.
- Presents a **SIGNIFICANT POSSIBILITY OF SIGNIFICANT HARM** for non-radioactive contamination (or significant possibility of harm for radioactive contamination) being caused to that receptor, or
- Is resulting in, or is likely to result in the significant pollution of the controlled waters which constitute the receptor for non-radioactive contamination only.

3. Corporate Objectives and Policies

3.1 Introduction

This Contaminated Land Inspection Strategy and will operate within the context of the Corporate Strategy as well as alongside other strategic plans such as the longer term Community Strategy 2026, the Local Development Framework and Housing Strategy.

It will play an important part in allowing Wigan Council to move closer to meet its aims and objectives for environmental improvement, regeneration, and sustainable development while working to ensure the health and wellbeing of its residents.

3.2 Corporate Strategy 2011 – 2016

Wigan Council's Corporate Strategy is driven by the longer term Community Strategy Vision 2026 priorities for the Borough and brings together on a single page our thinking on the challenges and opportunities that we need to tackle in the short to medium term.

Our Corporate Strategy is underpinned by three core priorities:

Confident Places - An attractive, accessible and lively borough, with a prosperous economy as the location of choice for investment.

Confident People - Improving life opportunities and independence, making sure people feel safe and supported in their communities; helping people to stay healthy longer.

Confident Council - Your Council has re-focused its reduced resources towards early intervention and prevention to achieve more for less.

This Contaminated Land Inspection Strategy will therefore contribute to and help to achieve a number of the Corporate Strategy Long Term Outcomes of:

- Solid economic growth and development that is evident across the borough.
- A housing market that provides residents with a good choice of quality, affordable homes set within places people want to live.
- The Borough has an environmentally sustainable future.
- The potential of green open spaces is maximised
- A leisure and culture offer is in place that delivers a range of quality facilities and positive activities that are accessible to all.

3.3 Community Strategy – Wigan Borough Vision 2026

The Community Strategy is all about the long term aspirations of local people for the young people of the future - 2026.

Over the next few years this strategy will guide the actions and will provide the framework for how services and communities will work together to address problems and to create new opportunities.

“We recognise that our principles and values need to underpin all action that takes place in the Borough. For that reason we will be playing close attention to core questions around sustainability, equality and diversity, health and cohesion – as we believe that these are critical elements of all our work. “ (Lord Smith of Leigh, Community Strategy – Wigan Borough Vision 2026, www.wigan.gov.uk).

3.4 Local Development Framework

The Local Development Framework (LDF) can consist of a number of development plans, which can be prepared at different times and for different purposes, but all have to be prepared along the same lines as set out by Government legislation.

The Core Strategy is the strategic development plan document in the LDF and sets out Wigan Council’s spatial vision and strategic objectives and contains the spatial strategy for the Borough, core policies and a monitoring and implementation framework with clear objectives for achieving delivery. (Available at www.wigan.gov.uk).

3.5 Urban Green Agenda - Greenheart Regional Park

Greenheart is an extensive network of high quality landscapes and open spaces covering approximately 57km² (22 square miles) across the Borough, providing an attractive countryside setting for both residents of the Borough and from its surrounding towns and villages.

The Greenheart Regional Park consists of an extensive network of community parks, wetlands, ecological habitats, recreational facilities, restored canals and public rights of way. These spaces have developed out of the Borough’s industrial past and, through investment, they are being developed as a Regional Park to provide a valuable asset to the Borough’s residents, as well as visitors from the wider region and beyond. Together, these sites represent one of the region’s most important environmental and recreational assets, and demonstrate how an area’s brownfield legacy can be transformed into a regionally significant green asset.

The Vision for Greenheart is that it “...will become a regional park of the highest quality, bringing together sites across Wigan to provide a diverse range of recreational facilities and ecological habitats within a thriving countryside setting.” This vision is being developed through a partnership approach and is currently embarking on a new phase of development as it starts to deliver the vision and objectives recently agreed by partners.

The objectives for Greenheart have been identified as:

- Provide recreational and leisure facilities to be enjoyed by local residents and visitors from across the region and beyond.
- Support ecological habitats of regional and national importance, including wetlands, waterways and woodlands.
- Provide economic benefits to the local community.

- Support the development of sustainable environments and communities.

The objectives reflect the wider potential of Greenheart to deliver and stimulate regeneration within the Borough, including environmental, social and economic benefits. (www.wigan.gov.uk)

3.6 Biodiversity Action Plans

Wigan Council's Biodiversity Action Plan's for reed bed, bitten, great crested newt, red squirrel and moss lands present a positive and clear way forward to conserving our local wildlife. They reflect the biodiversity of local areas and require the active involvement of local communities and provide targets and actions that work towards both species and habitat conservation.

Further details can be found within 'Wigan's Biodiversity - An Audit of the Biodiversity Resource within the Borough' available at www.wigan.gov.uk.

3.7 Wigan and Leigh Centre Area Action Plan's

The plan's identify the actions needed to make Wigan Central a more competitive location for economic development, improve accessibility and create a more attractive environment.

They will identify what new development is required, where it should be located and how it will be delivered. They will also identify what infrastructure works (such as new roads or cycle ways) or what other improvements are needed to continue regeneration. These plan's will review the town centre boundary's and the extent of the Principle Shopping Area's.

3.8 Vision 2026 – Wigan Housing Strategy

Our new housing strategy sets out our long term vision for housing in the Borough in 2026. Our vision has been established following extensive consultation with our partners and residents of the Borough.

Our vision for housing will help to achieve the wider priorities of the Council and our partners as set out in the Sustainable Communities Strategy - Vision 2026. (Vision 2026 – Wigan Housing Strategy, www.wigan.gov.uk).

3.9 Access to information / data protection

Wigan Council will operate within the statutory framework for disclosure and providing information. So as not to compromise investigations or potential for criminal proceedings information will be restricted to that necessary to discharge any statutory duty in relation to access to information.

The Data Protection Act 1998 applies to the processing, holding and deletion of personal data that identifies a living individual. It applies to personal data regardless of the format in which the data is held in. In order to fulfil its functions there is a need to collect and use information about people with whom the Council works (e.g. service users, employees, members of the

public, suppliers). To ensure that we are compliant with the Data Protection Act 1998, the Council has a range of Information Governance Policies and Processes, which underpin the Council's responsibility to protecting the personal data it processes.

3.10 Enforcement Policy

One of the main functions of Wigan Council is to act as a regulator and an enforcement agency for a large range of legal duties and powers applied by Acts of Parliament, and the Regulations and Orders made under them (including various bylaws).

Wigan Council's Enforcement Policy sets out the standards and guidance that will be applied by the Council when acting in the role as regulator and enforcement agency across a range of its relevant legal powers and duties. The policy applies to enforcement and regulation affecting members of the public and businesses and has been developed following consultation.

Wigan Council's aim is to undertake its regulatory and enforcement role in a fair, open and consistent manner, consistent with The Regulators Code, which was laid before Parliament in accordance with Section 23 of the Legislative and Regulatory Reform Act 2006. Further details can be found within The Regulators Code.

In doing this the Council will act in accordance with the guidance and standards set out in this policy, and in any supplementary Departmental policies.

In particular Wigan Council will:-

- Consult with parties subject to regulation and enforcement by Wigan Council about the standards it sets in undertaking this role;
- Work with individuals and businesses to assist them in complying with their legal duties and obligations;
- Ensure its staff are appropriately trained and apply the policy and standards professionally and consistently;
- Make information about the policy and the standards widely available to the public and businesses within the Borough;
- Monitor compliance with the policy and review it from time to time in consultation with parties subject to its application.
- Be a signatory to and act in accordance with the Government's Enforcement Concordat.
- Have regard to the Regulators Code.

In undertaking its regulatory and enforcement role the Council will have regard to the following Guiding Principles:-

- Any decision regarding enforcement action will be impartial and objective, and will not be affected by race, politics, gender, sexual orientation or religious beliefs of any alleged offender, victim or witness;
- The Council believes the vast majority of individuals and businesses wish to comply with the legal requirements placed upon them and should be assisted in doing so;
- In dealing with any enforcement situation, the Council's actions will be proportionate to the scale, seriousness and intentionality of any non-compliance;
- There will be consistency of enforcement whilst recognising individual circumstances which may modify the appropriate action to be taken in each case;
- Except in the most serious cases or where advice / warnings have not been heeded, adequate opportunity will normally be given to rectify non-compliance before formal legal action is commenced;
- Enforcement is seen as a final means of securing compliance with the appropriate standards, and not as an end in itself;
- Prosecution will normally only be considered where it is in the public interest to do so and in serious or blatant cases, or where other approaches have failed;
- Regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action, (eg. Human Rights Act 1998, Code for Crown Prosecutors);

Regard shall be had to the Council's Equal Opportunities and Customer Care Policies. (Wigan Council Enforcement Policy, www.wigan.gov.uk).

4. Characteristics of the Wigan Borough

The causes and impacts of land contamination in the UK vary greatly from region to region, depending largely on the different local industries, land use and environmental sensitivities. This Chapter presents an overview of principle characteristics of the Wigan Borough – its history, geography, geology, hydrology and land use.

4.1 Geography

Geographically, the Borough of Wigan is one of the largest of the Metropolitan Borough's in the UK, with an area of nearly 77 square miles.

4.2 The green borough

The Borough of Wigan is located approximately midway between the cities of Liverpool and Manchester and is sheltered by the Pennines to the East and Cheshire Plains to the South. Once described by George Orwell in his book 'The Road to Wigan Pier' as an area filled with cold cobble stone streets, a frightful landscape of slagheaps and belching chimneys. This historical image has been replaced by one where over 78% of the Borough is 'green' open space, with many urban areas having been rejuvenated.

Only 22% of the Borough is urban land with other land uses in the Borough including:

- 36% Grassland
- 16% Arable
- 13% Woodland and Scrub
- 2% Water

4.3 Fauna and flora

A wide range of fauna and flora inhabit the area with almost one hundred sites across the Borough being designated for their wildlife importance. These range from internationally important through to locally important and cover a whole range of habitats from woodlands and grasslands to wetlands and moss lands.

However, important wildlife is not restricted to these sites and protected species such as great crested newts are found in many ponds in Wigan and a number of bat species use buildings, trees and other structures across the Borough.

In addition there are 15 species of dragon and damsel fly and more than 100 species of birds, including bitterns that can be found in the Borough along with a small localised population of red squirrel.

Sites of Special Scientific Interest (SSSI) are the finest sites for wildlife and natural features in England. The purpose of SSSI is to safeguard sites of high natural heritage importance. SSSI's are protected under the Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000.

There are four SSSI sites in the Wigan Borough:

- Astley and Bedford Moss, Astley
- Abram Flashes
- Bryn Marsh and Ince Moss (part of Wigan Flashes)
- Highfield Moss, Lowton

Astley and Bedford Moss is also designated as part of the Manchester Mosses Special Area of Conservation (SAC) which is a European site protected by The Conservation (Natural Habitats & c.) Regulations 1994.

There are also many sites of regional and local importance in Wigan, these are designated as Sites of Biological Importance (SBI) by Greater Manchester Ecology Unit on behalf of the Council. (www.wigan.gov.uk).

There are 29 regionally important sites of natural history interest in the Borough making up some 28% of the total for Greater Manchester. There is also a total of more than 100 hectares of ancient woodland made up of 22 parcels of mature woodland, a number of Sites of Biological Importance, monuments and listed buildings that have been identified by Wigan Council as sensitive receptors requiring protection in relation to contaminated land.

Further information can be found within 'Wigan's Biodiversity - An audit of the biodiversity resource within the Borough' at www.wigan.gov.uk.

In addition, all controlled waters including rivers, flashes and aquifers (especially those within the Source Protection Zone) have been identified as sensitive receptors requiring protection. The Environment Agency is responsible for the regulation of controlled waters and will be Wigan Council's primary source for advice and guidance.

4.4 Population

The population at the last census (2011) was approximately 317,800.

4.5 History

The Borough of Wigan has a long history of human occupation and is understood to have originated from the Roman occupation, as a garrison known as Coccium. Archaeological excavations in the town, especially in and around 'The Wiend' have produced evidence of a major Roman presence.

Further evidence of Roman activity in the area was encountered during excavations in 2005 by Oxford Archaeology North to facilitate the Grand Arcade development. The finds include an early 2nd century bathhouse. The presence of a Roman fort is now regarded as certain following this discovery.

In 1246, the town was granted the status of a Borough by Charter of Henry III. One of the four original royal Borough's of Lancashire, Wigan ranked equal with Liverpool, Lancaster and Preston. In the 19th century, Wigan saw an enormous growth in the town's population and industrial activity.

Within the eastern part of the Borough is the second largest town of Leigh. The parish of Leigh was formed in the 12th century and comprised the 6 townships of Bedford, Pennington, Westleigh, Astley, Atherton and Tyldesley with Shakerley. The Leigh area, in addition to mining and textiles was famous until the end of the 19th century for its dairy produce.

There are many small ponds on the clay soils across parts of the Borough and one characteristic of the Borough landscape is the large number of historic moated sites, many of which date back to early medieval times. (Wigan: A Landscape Character Assessment, 2009).

The Bridgwater Canal was extended from Worsley to the middle of Leigh in 1795, and in 1819 a branch was cut from the Leeds to Liverpool Canal at Wigan to meet the Bridgwater Canal at Leigh Bridge, giving access from Leigh to all parts of Lancashire, Yorkshire and the Midlands. Transport by rail was introduced in 1828 with the opening of the first public railway in Lancashire.

4.6 Industrial past

Like many towns in the North-West, Wigan's history is linked to coal mining, textiles and heavy industry, resulting in a legacy of land modified by its previous use. The possible impact of industrial processes is not a recent issue, with records indicating that during the 1600's restrictions on digging for coal under roads and back gardens was introduced by the Rector of Wigan.

These three major industries all have their origins in the Borough in the 16th and 17th centuries with coal workings concentrated around Aspull, Billinge and Haigh. By 1789 Wigan had become established as the centre of the Lancashire coalfield, with the industry concentrated in a series of distinct areas. These were Billinge, Haigh, Orrell and Standish in the north and west, Abram, Ashton-in-Makerfield, Ince-in-Makerfield and Golborne in the south and Atherton and Tyldesley to the east and southeast. Wool and flax industries were established in the late 16th century and by the end of 18th century, linen checks, calicos and fustians were being produced. The manufacture of iron commenced at Haigh Foundry in 1788, producing rails, locomotives, structural ironwork, swing bridges etc. Other factories were built around the same period, mainly in the urban areas. Lack of suitable streams to provide waterpower slowed Wigan's development in textile manufacturing, but the invention of steam power changed this situation. (Wigan: A Landscape Character Assessment, Final Report Prepared For Wigan Council By Agathoclis Beckmann, March 2009, www.wigan.gov.uk).

By the mid 1850's coal mining had emerged as the major industry in the area and by around 1900, approximately 50 colliery companies were at work in and around Wigan producing anywhere from 5,000 up to around half a million tons of coal a year.

At its height, the coalfield centred on just the one district around Wigan, employing some 30,000 miners, the largest employer of labour after textiles. However due to geological and economical restrictions, mining migrated to other parts of the Borough concentrating in towns such as Leigh, Astley and Tyldesley.

In 1992 the last remaining deep mine at Bickershaw Colliery near Leigh was closed by British Coal. Over the past few decades many visible traces of the Borough's mining past have been removed, with the capping of shafts and the reclamation and redevelopment of the old colliery sites and spoil heaps. Other heavy industries associated with the Borough have included iron and steel foundries, brick works, heavy engineering and railway sidings & depots. Closure of these 'traditional' industries have seen many sites develop into industrial estates being occupied by secondary processes like scrap yards, depots, factories and garages, potentially adding their own legacy to the land. Whilst there are still many operations with the potential to pollute the land, changes in operational practices and improved legislation has seen a general reduction in the impact on land.

Throughout the entire area of the Borough the evidence of the Industrial Revolution is rarely far away, it is indeed one of the greatest assets of the Borough. Few towns in the UK can boast of so much industrial archaeology and few have had such inventive and industrious inhabitants. (Wigan: A Landscape Character Assessment, Final Report Prepared For Wigan Council By Agathoclis Beckmann, March 2009, www.wigan.gov.uk).

4.7 Geology

4.7.1 Solid geology

The Wigan Borough is underlain by strata deposited during two distinct periods of geological time, which in turn has influenced not only the topography of the area but also the land use and industrial activity over the years.

Broadly speaking a line can be drawn from Ashton in Makerfield to the west, south of Leigh and across to Astley and Boothstown to the east. North of this line are strata of about 320 to 300 million years in age, formed during the *Upper Carboniferous*, commonly known as 'the Coal Measures'. Made up of predominately interbedded sandstones and mudstones and interspersed with seams of coal, these rocks were formed in delta conditions as part of a cycle of deposition as land repeatedly rose and fell below sea level.

Rocks formed during this period include the '*Millstone Grit Series*' (oldest rocks occurring at the surface in the area), which outcrop to the west of Billinge Hill. '*Westphalian A*' rocks, identified between marine bands including the Sutton Manor Marine Band (rich in marine fossils) contain a number of important coal seams including the Six Inch and Arley Mine. Rocks of this period outcrop to the west of the Pemberton Fault and east of the Great Haigh Fault.

'*Westphalian B*' rocks outcrop generally in two main zones, one within a complexly faulted graben between the above mentioned faults and the other in a broadly east-west orientated southwards dipping zone between the underlying Westphalian A and the overlying Permo-Triassic in the east of the

area. Coal seams are also located within these strata and include the lower Pemberton Series and the Upper Ince Series of seams.

Finally there are the '*Westphalian C*' rocks which outcrop eastwards of Leigh. Only one significant coal seam occurs within these strata – Worsley Four Foot seam, which was extensively worked in the east of the Borough. Due to the nature of its formation relating to a marine environment this particular seam is known to have a relatively high sulphur content (evidence of anaerobic conditions during formation).

South of the Ashton-in-Makerfield to Boothstown line are the younger Permo-Triassic (Permian & Triassic) rocks, which formed some 280 to 250 million years ago. They are predominately sandstone, which formed in arid, semi desert and desert conditions and marls, which formed in shallow sea conditions. The '*Collyhurst Sandstone*' is a distinctive soft deep red rock formed by windblown sand (sand dune deposits). Overlying the Collyhurst Sandstone is the '*Manchester Marl*' a dark brick red mudstone with beds of sandstone and limestone, with many marine fossils towards its base. Finally there is the '*Sherwood Sandstone Group*' which is soft red-brown sandstone with beds of coarser well-rounded grains (formerly known as the Bunter Pebble Beds). These deposits are important in terms of their groundwater retention capabilities – i.e. aquifers.

4.7.2 Drift geology

Overlying most of the bedrock in the Borough are 'superficial drift deposits'. Predominately these deposits are comprised of glacial till and glaciofluvial deposited by the release of sediments in water as the ice sheet melted at the end of the last ice age some 14,000 years ago, which include clays and sand & gravel deposits. Other drift deposits across the Borough include alluvial deposits and river terrace deposits of sand & gravel which are generally found following the line of rivers and bodies of water within the Borough.

At the end of the Ice Age, numerous clay-lined depressions and basins were left in the landscape which filled with water, bog vegetation and, in particular, sphagnum mosses. Over time this material built up to form the great peat moss of Chat Moss, part of which is within the southeast of the Borough around Astley Green. Other much smaller examples are found at Highfield Moss and Ince Moss. (Wigan: A Landscape Character Assessment, 2009, www.wigan.gov.uk).

To the west of the Borough around Billinge are the '*Shirdley Sands*', which are aeolian (wind blown) sands. In contrast, areas around Orrell and Winstanley are noted as having very little drift deposits with bedrock found very close to the surface or in fact outcropping at surface.

4.7.3 Made-ground

Human activity has also had a significant influence on the land within the Borough. Mining, mineral exploration and extraction and industrial activity has

resulted in widespread deposits of made-ground/fill (deposits placed by man on to the natural ground surface) and worked/disturbed ground across the Borough. These materials can range from colliery spoil or engineered fill, to tipped demolition waste and domestic/industrial wastes (landfill) of which there are over 50 nominated landfill sites within the Borough. Made-ground deposits found on development sites across the Borough have ranged from a thin veneer comprising a few centimetres of material to material placed in excess of ten metres thick. Colliery spoil is widespread across the Borough, a result of Wigan being once at the heart of the Lancashire Coalfield. Colliery spoil has frequently been used to raise ground levels and often goes unseen beneath the ground surface. Alternatively it was placed in large spoil mounds on the surface creating artificial hills. There have been a number of underground/colliery spoil heap fires in the Borough over the last ten years, a likely consequence of a high coal content within certain spoil mounds and conditions favourable for spontaneous combustion.

4.8 Hydrogeology

The hydrogeology of the area also reflects the same north south split as that exhibited in the Borough's geology. North of the Ashton-in-Makerfield to Boothstown line the Carboniferous mudstones and sandstones are classed as a minor aquifer of variable permeability. They are not of major significance with regards to sensitivity and water abstraction.

However south of the Ashton-in-Makerfield to Boothstown line the Permo-Triassic Sandstone's are highly permeable major aquifers. Such is their importance as a source of potable (drinking) water, the Environment Agency have declared Source Protection Zones (SPZ) around specific abstraction points in the Borough. Additional information on SPZs can be found on the Environment Agency's website at www.environment-agency.gov.uk.

Identification of potential linkages between the contaminant sources and these sensitive zones will be one of the main objectives of this strategy. In addition, it is also recognised that these aquifers, including the superficial drift deposits, can also act as pathways as well as being targets and as such, they will be considered as both within this strategy.

4.9 Hydrology

Wigan is drained by two river systems. To the west, the River Douglas, which flows into the Borough from the north-west, flows south and then dramatically turns west around Wigan town centre and then off to the west, through the Gathurst Gap. From there, the River Douglas flows generally north-north west, discharging into the Ribble Estuary. The Douglas is joined by numerous small streams from the higher ground to the north and west, such as Dean Brook, Mill Brook and Calico Brook.

To the east of Wigan, Hey Brook drains all the central section of the Borough, joining the River Glaze, which flows south into the River Mersey and the Manchester Ship Canal. Hey Brook is joined by Borsdane Brook and

Westleigh Brook from the north and Hindsford Brook from the east. The Glaze forms part of the boundary of the Borough along the western site of Astley and Bedford Moss receiving the waters of Black Brook which runs from the east through the northern part of the moss. In addition, Millingford Brook flows southwards through Golborne and towards St. Helens.

Hey Brook ran through a shallow valley with water meadows along its length until the late 19th to early 20th centuries when 'Flashes' started to form as a result of subsidence from coal mining. Hey Brook flooded these depressions creating a vast chain of wetlands. They now form a network of extremely important wetland habitats between Hope Carr and Pennington in the east and the Wigan Flashes adjacent to Wigan Town Centre in the west. They support a wide range of plants and provide a nesting and feeding habitat for waterfowl including the nationally rare Bittern, Heron, Tufted Duck, Coot, Pochard, Goldeneye, Gadwall, Great Crested Grebe, Water Rail, Common Tern, Sedge Warbler, Reed Bunting, Willow Tit and Reed Warbler. They are also important for invertebrates including 15 species of dragonfly. Wigan Flashes includes six SBI's, with Bryn Marsh having SSSI status and a large part has also been designated as a Local Nature Reserve (LNR). In addition the Abram Flashes also have SSSI status and Pennington Flash and Hope Carr are SBI's.

There are many small ponds on the clay soils across parts of the Borough and one characteristic of the landscape of Wigan is the large number of historic moated sites within the Borough, many of which date back to early medieval times. (Wigan: A Landscape Character Assessment, 2009, www.wigan.gov.uk).

There are a number of reservoir, including Worthington Lakes and the Orrell Water Park located within the Borough. A number of smaller reservoir and lodges can also be found, a remnant of the Borough's industrial past with many associated with former mill and colliery sites.

The Leeds & Liverpool Canal, including the Leigh Branch also traverse across the Borough. The 'Wigan Flight' on the Leeds & Liverpool Canal comprises some 23 locks, which take the canal from Wigan Pier to Top Lock, New Springs.

5. Strategy Aims and Objectives

The Statutory Guidance requires each Council to set out its aims, objectives and priorities with respect to a Contaminated Land Inspection Strategy. The previous chapters have outlined Wigan Council's duties under Part 2A, how the Contaminated Land Inspection Strategy relates to existing Council functions and described the unique characteristics of Wigan Borough.

All these factors play a crucial part in determining Wigan Council's strategic approach to inspection and what it hopes to achieve from carrying it out. This

chapter brings these factors together into a coherent set of aims, objectives and priorities.

Set out below is a list of 4 key aims that Wigan Council wishes to achieve through its management of land contamination issues. These are overall aims which interlink with, and are supported by, those of existing council policies and strategies. They also reflect the councils statutory duties.

It is not intended that these aims will be achievable solely through the implementation of Part 2A. Delivery of other Wigan Council strategies and statutory functions may also contribute.

Against each aim is a set of objectives and priorities.

- Objectives are activities that can or must be achieved as a direct result of the implementation of the Strategy.
- Priorities are the key activities, we wish to carry out in the course of fulfilling the objectives.

5.1 Aims and Objectives

The order in which the aims, objectives and priorities are presented is arbitrary. These are Wigan Council's current aims, objectives and priorities. They may be reviewed and revised as the Contaminated Land Inspection Strategy is implemented and targets are achieved, but also in light of changes in Wigan Council policy, as well as Government guidance and legislation.

AIM 1 – To achieve environmental improvement

- Objective – Ensure appropriate remediation for those sites where land contamination is presenting unacceptable environmental risks.
- Priorities – act as statutory consultees throughout the planning process

AIM 2 – To encourage regeneration and redevelopment

- Objective – Enable informed decisions (by Wigan Council and third parties) regarding future land use
- Priorities – provide information for planning briefs

AIM 3 – To fulfil the council's responsibilities with respect to implementing environmental legislation

- Objective – Ensure the Contaminated Land Inspection Strategy and its implementation meet the requirements of Environmental Protection Act 1990; Part 2A

- Priorities – Adopt a rational, ordered and efficient approach focusing on identifying most pressing and serious problems first

AIM 4 – To raise awareness and promote understanding of land contamination issues

- Objective – Encourage a proactive approach amongst landowners and potential polluters towards investigation of contamination and to encourage voluntary remediation
- Priorities – Carry out consultation on future reviews of the Contaminated Land Inspection Strategy with stakeholders as considered necessary, adopt a transparent approach to implementing the Contaminated Land Inspection Strategy and to develop effective procedures for communication, liaison and information exchange within the Council and with third parties.

Wigan Council will continue to investigate and encourage suitable remediation of sites within the Borough predominately through the planning process, which is deemed to be the most efficient and cost effective way of bringing potentially contaminated land back into beneficial and economic use.

The contaminated land regime is designed to deal with contamination problems that cannot be addressed under other legislation such as the planning system. Therefore, any sites that are brought to our attention and are unable to be dealt with under other legislation, will be progressed in accordance with statutory guidance.

6. Strategy Outline and Progress to Date

6.1 Outline

Contaminated land cannot be addressed in isolation and like other environmental issues such as air pollution, any associated contamination strategies need to be sensitive to other broader issues.

The 2005 Wigan Economic Development Plan is regarded as a catalyst for change, successfully integrating national, regional and sub-regional strategies and supports Wigan Council's Community Plan. It also recognised the need to offer greater opportunity for local residents by modernising the local economy thereby increasing the number and quality of jobs. However, this requirement for modernisation should be balanced against the quality of life of the Borough residents.

Taking into account sustainable development, the aim of the Wigan Economic Development Plan is to improve competitiveness and encourage economic growth at the same time as protecting and enhancing Wigan's diverse environment, using resources prudently, tackling the causes of social

exclusion, and recognising the needs and contribution of everyone. (Wigan Local Development Framework, Evidence Review, 5. Economy and Employment, August 2011, www.wigan.gov.uk).

The over riding conclusion is that Wigan Council's Contaminated Land Inspection Strategy should be progressed without imposing unacceptable economic or social costs to our society as a whole. This will mean:

- Providing advice and information which assists inward and other new investment decisions as appropriate and in conjunction with our regulatory function;
- Introducing the strategy and legislation in a balanced manner which does not cause unnecessary alarm to our communities and damage our image; and
- Ensuring that remediation costs falling upon the Council taxpayers are kept to a minimum.

6.2 Progress to date

The primary method of successfully investigating and remediating site's within the Wigan Borough will continue to be through redevelopment under the planning regime.

For sites that are not to be redeveloped but are brought to our attention as potentially contaminated land under Part 2A, the aim of the Contaminated Land Inspection Strategy is to adopt a strategic approach, with priority given to particular areas of land that are considered most likely to pose the greatest risk to human health or the environment.

To date, we have not completed the identification or prioritisation of sites to investigate within the Borough under the Part 2A Inspection Strategy regime, however, we have made contaminated land determinations. These determinations reflect the confirmation of contaminant linkages.

To date there have been a total of 282 determinations made within the Wigan Borough, 281 of these on the Ince Central Estate and 1 at Clarington Forge.

The Ince Central Estate determinations were made following a complaint investigation relating to subsidence, which subsequently led to a Part 2A investigation.

The Clarington Forge determination was made following a request from the Environment Agency to determine part of the site, rather than a strategic approach under the original Contaminated Land Inspection Strategy.

The Ince Central Estate remediation project was one of the largest projects of its kind in the country under Part 2A, utilising in the region of £9M Capital Grant Funding.

All properties on the Ince Central Estate, which were determined as Contaminated Land have now been successfully remediated.

The Clarington Forge site was remediated to an acceptable standard for its existing end use and does not pose a health risk to end-users.

Further details on both the Ince Central Estate and Clarington Forge can be found on the Council's website at www.wigan.gov.uk.

6.3 Background studies

Wigan Council has extensive information on its geology and former land use from the survey of the Borough by the British Geological Society (A Geological Background for Planning and Development in Wigan. Technical report WN/03/3, 1996 BGS).

In addition to this, in 1996, as part of its preparation for the new regulatory regime for contaminated land, Wigan Council commissioned The Centre for Research into the Built Environment (CRBE - Nottingham Trent University) to undertake a baseline study of potentially contaminated land within the Borough.

The methodology for the survey was adapted from one of a series of reports financed by the Department of the Environment, the Contaminated Land Research Report No 6 (CLR6). The report (CLR6) sets out a simple but systematic approach to deciding what priority to give to action on a site that may be contaminated.

A preliminary survey involving a 'desk top' study into the historical records on past industrial activity plus a 'walk over' of sites was selected as being appropriate for providing sufficient information to formulate a Borough wide strategy whilst still representing the best value use of public expenditure. The methodology for the survey was adapted from the Department of the Environment, the Contaminated Land Research Report No 6 (CLR6) which sets out a simple but systematic approach to deciding what priority to give to a site that may be contaminated.

The baseline study provides a summary of land use and geology in the Borough together with a basic risk assessment of 327 potentially contaminated land sites and included all land regardless of ownership.

The limitations of this approach are recognised and further work on the database has confirmed significant limitations including errors within the original data-set. However, the information remains sufficiently robust for informing the strategy and providing a platform for further prioritisation and determining inspection programmes.

6.4 Derelict land

Whilst a significant proportion of the Borough is rural or semi-rural, the legacy of old industry and housing redevelopment has resulted in areas of derelict land. Such land may not be contaminated (in accordance with the statutory definition) but it is land that is no longer capable of beneficial use without some form of intervention.

Wigan Council's 1993 Derelict Land Survey identified 624 hectares of derelict land remaining in the Borough, representing 3.1% of the Borough's area. Of this total approximately 80% of the Borough's derelict land was located within the Wigan Coalfield area. By 2009 the amount of derelict land identified within the Borough had reduced, with some 383 hectares of derelict land remaining. (Core Strategy, Wigan Council, www.wigan.gov.uk).

Wigan Council's 2011 Brownfield Land Survey has subsequently identified in the region of 1100 hectares of 'brownfield' land within the Borough, within the east-west core, with the highest concentrations being in the settlements of Leigh, Wigan and Hindley. (Wigan Council - Brownfield Land in Wigan Borough, National Land Use Database, November 2011, www.wigan.gov.uk).

6.5 Development

Wigan Council's broader approach of dealing with land contamination under the planning and building control system, to ensure land is made suitable for use when it is redeveloped will normally be achieved by use of standard planning conditions for the assessment and remediation of contamination and/or landfill gas as part of a particular development.

As part of compliance with the planning condition the applicant/developer will have a duty to investigate and remediate as necessary (in consultation and prior agreement with the Local Planning Authority) to ensure that the particular development is suitable for its intended use.

Defra and the Environment Agency published the 'Model Procedures for the Management of Land Contamination' (Contaminated Land Report CLR11, www.environment-agency.gov.uk) in 2004. CLR11 provides a technical framework for structured decision making about land contamination and identifies verification as a key part of the risk management process.

6.6 Verification

Verification is an integral component of any quality system to ensure that objectives are defined and appropriate evidence is collected and assessed to show that those objectives have been met."

"The terms 'verification' and 'validation' are embedded in quality management standards for the evaluation of a product, service, or system. BS EN ISO 9000:2005 provides the following definitions:

Quality – degree to which a set of inherent characteristics fulfils requirements;

Verification – confirmation through the provision of objective evidence that specified requirements have been fulfilled; and

Validation – confirmation through the provision of objective evidence that the requirements for a specific intended use have been fulfilled.”

CLR11 defines the remediation strategy as “a plan that involves one or more remediation options to reduce or control the risks from all the relevant pollutant linkages associated with the site”. The development of a remediation strategy will be carried out during options appraisal (see Chapter 3 of CLR11) and consider the practical implementation of the options proposed to meet the remediation objectives.” (Environment Agency/DEFRA - Model Procedures for the Management of Land Contamination, CLR 11, www.environment-agency.gov.uk).

It is imperative that the applicant/developer undertakes appropriate verification of any remediation works and it is fundamental to making a request to discharge a contamination/landfill gas planning condition at the end of a development. Without appropriate verification a recommendation can not be made to Development Management to discharge the condition(s). Failure to appropriately investigate, remediate (as necessary) and subsequently to verify the works will be in breach of planning condition.

In addition NPPF states at Section 121 that “after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.” Therefore failure to appropriately satisfy the requirements of the planning condition may result in a future contaminated land investigation, taking into account the strategic objectives.

6.7 Funding

Funding of similar site investigation and remediation works in the future, through the Defra (Department for Environment, Food and Rural Affairs) Contaminated Land Capital Grants Scheme, will no longer be available and has now ceased. In a letter to all Local Authorities in England in December 2013, the Parliamentary Under Secretary confirmed that “Defra will no longer be supporting the costs of investigating and remediating contaminated land under Part 2A through the Contaminated Land Capital Grants Scheme.” “As currently, funding for local authorities to fulfil their statutory obligations under Part 2A of the Environmental Protection Act will continue to be provided through the Revenue Support Grant provided by DCLG (Department for Communities and Local Government).”

6.8 Strategic approach

Under Part 2A a strategic approach will be taken with priority given to particular areas of land that are considered most likely to pose the greatest risk to human health or the environment.

Under Part 2A, risks should be considered only in relation to the current use of the land, which means:

- a) The use which is being made of the land currently.
- b) Reasonably likely future uses of the land that would not require a new or amended grant of planning permission.
- c) Any temporary use to which the land is put, or is likely to be put, from time to time within the bounds of current planning permission.
- d) Likely informal use of the land, for example children playing on the land, whether authorised by the owners or occupiers, or not.
- e) In the case of agricultural land, 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.

In accordance with the Statutory Guidance, when assessing risks any receptors which are not likely to be present given the current use of the land or other land which might be affected will be disregarded. In considering the timescale over which a risk should be assessed, Wigan Council should take into account any evidence that the current use of the land will cease in the relevant foreseeable future (e.g. within the period of exposure assumed for relevant receptors in a contaminant linkage). (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

The process of risk assessment involves understanding the risks presented by land, and the associated uncertainties. In practice, this understanding is usually developed and communicated in the form of a “conceptual model”. The understanding of the risks is developed through a staged approach to risk assessment, often involving a preliminary risk assessment informed by desk-based study; a site visit and walkover; a generic quantitative risk assessment; and various stages of more detailed quantitative risk assessment. The process should normally continue until it is possible to decide:

- a) that there is insufficient evidence that the land might be contaminated land to justify further inspection and assessment; and/or
- b) whether or not the land is contaminated land.

For land to proceed to the next stage of risk assessment there should be evidence that an unacceptable risk could reasonably exist. If there is little reason to consider that the land might pose an unacceptable risk, inspection

activities should stop at that point. In such cases the Wigan Council will have regard to paragraphs 5.2 – 5.4 of the Statutory Guidance.

6.9 Detailed inspection of land

If particular areas of land are considered to have a reasonable possibility of having a significant contaminant linkage during the strategic inspection process, the land will go forward for detailed inspection to obtain sufficient information to decide whether it is contaminated land. In doing so Wigan Council will have regard to Section 3 of the Statutory Guidance along with its approach to prioritisation for detailed inspection.

If at any stage Wigan Council considers, on the basis of information obtained from inspection activities, that there is no longer a reasonable possibility that a significant contaminant linkage exists on the land, we will not carry out any further inspection in relation to that linkage.

In addition if we identify land which we consider (if the land were to be determined as contaminated land) would be likely to meet one or more of the descriptions of a special site set out in the Contaminated Land (England) Regulations 2006, we will consult the Environment Agency and, subject to the Agency's advice and agreement, arrange for the Agency to carry out any intrusive inspection of the land on our behalf, taking into account the provisions of the Statutory Guidance. (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

6.10 'Normal' presence of contaminants

The Part 2A regime was introduced to deal with land that posed an unacceptable level of risk. It was not intended to apply to land with contaminant concentrations that are commonplace and widespread in particular areas, for example in areas with normally high 'background' contaminant concentrations and for which in the very large majority of cases there is no reason to consider that there is an unacceptable risk.

'Normal' levels of contaminants in soil may result from:

- a) The natural presence of contaminants (e.g. caused by soil formation processes and underlying geology) at levels that might reasonably be considered typical in a given area and have not been shown to pose an unacceptable risk to health or the environment.
- b) The presence of contaminants caused by low level diffuse pollution, and common human activity other than specific industrial processes. For example, this would include diffuse pollution caused by historic use of leaded petrol and the presence of benzo(a)pyrene from vehicle exhausts, and the spreading of domestic ash in gardens at levels that might reasonably be considered typical.

In deciding whether land has normal levels of contaminants, consideration will be given to whether contamination is within the bounds of what might be considered typical or widespread:

- a) locally, if there is sufficient information to make a reasonable consideration of what is normal within a local area; and/or
- b) regionally or nationally in broadly similar circumstances, having due regard to similarity in terms of land use and other relevant factors such as soil type, hydrogeology, and the form of the contaminants.

The Statutory Guidance states that the local authority should decide that normal levels of contaminants exist in relation to land where:

- a) those levels are not significantly different to those likely to be typical or widespread within the authority's area, or in other similar areas; and/or
- b) those levels are common or usual in similar land use situations across England or parts of it; and
- c) there is no specific reason to consider that those levels of contaminants are likely to pose an unacceptable risk. (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

6.11 Risk summaries

The revised Statutory Guidance introduces the use of 'risk summaries', which will be produced for any land where, on the basis of its risk assessment, it is considered likely that the land in question may be determined as contaminated land.

In a format that is understandable to the layperson, a risk summary will aim to explain our understanding of the risks and any other relevant factors associated with the land in question.

Risk summaries should include:

- a) a description of: the contaminants involved; the identified contaminant linkage(s), or a summary of such linkages; the potential impact(s); the estimated possibility that the impact(s) may occur; and the timescale over which the risk may occur.
- b) A description of the authority's understanding of the uncertainties behind its assessment.
- c) A description of the risks in context, for example by setting the risk in local or national context, or describing the risk from land contamination relative to other risks that receptors might be expected to be exposed to in any case.

- d) A description of the authority's initial views on possible remediation.
- e) In the case of land which (if it were determined as contaminated land) would be likely to be a special site, the authority should seek the views of the Environment Agency, and take any views provided into account in producing this description.

Local authorities are **not** required to produce risk summaries:

- a) For land which will not be determined as contaminated land
- b) For land which has been prioritised for detailed inspection (in accordance with Section 2 of the Statutory Guidance) but which has not yet been subject to risk assessment in accordance with Section 3.
- c) For land determined as contaminated land before the revised Statutory Guidance came into force (April 2012). (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

6.12 Deciding that land is not contaminated land

While undertaking our inspection duties we are likely to inspect land that it becomes apparent does not meet the definition of contaminated land or we may cease an inspection and assessment on the grounds that there is little or no evidence to suggest that it is contaminated land. The starting assumption of Part 2A is that land is not contaminated land unless there is reason to consider otherwise. In such cases the Statutory Guidance states that a written statement to that effect should be produced for the site in order to minimise unwarranted blight. We may however qualify such statements given its Part 2A risk assessment may only be relevant to the current use of the land. Such statements may also need to be reviewed as scientific understanding of risks evolve over time. (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

6.13 Determining that land is contaminated land

Local authorities have the sole responsibility for determining whether any land appears to be contaminated land and can not delegate this responsibility (except in accordance with section 101 of the Local Government Act 1972). In making such decisions local authorities may rely on information or advice provided by another body such as the Environment Agency, or a suitably qualified experienced practitioner appointed for that purpose.

There are four possible grounds for the determination of land as contaminated land (with regard to non-radioactive contamination):

- a) Significant harm is being caused to a human, or relevant non-human, receptor.

- b) There is a significant possibility of significant harm being caused to a human, or relevant
- c) non-human, receptor.
- d) Significant pollution of controlled waters is being caused.
- e) There is a significant possibility of significant pollution of controlled waters being caused.

In order to make a determination of contaminated land, Wigan Council will need to identify one or more significant contaminant linkage(s), and have carried out a robust, appropriate, scientific and technical assessment of all the relevant and available evidence.

In the case of any land which, following determination as contaminated land, would be likely to meet one or more of the descriptions of a 'Special Site' set out in the Contaminated Land Regulations 2006, Wigan Council will consult the Environment Agency before deciding whether or not to determine the land, providing the Environment Agency with a draft record of the determination. Local authorities should take the Environment Agency's views into full consideration and should strive to ensure it has the Environment Agency's agreement to its decision (although the decision is for the local authority to make, subject to the provisions of Part 2A. (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

6.14 Informing interested parties

In accordance with the statutory Guidance, before we make a determination we will inform the owners and occupiers of the land and any other person who appears to be liable to pay for remediation of our intention to determine the land (to the extent that we are aware of these parties at the time) unless it is considered there is an overriding reason for not doing so.

Consideration will also be given as to:

- a) Whether to give identified persons time to make representations, or to propose a solution that might avoid the need for formal determination, taking into account: the broad aims of regime; the urgency of the situation; any need to avoid unwarranted delay; and any other factor the we consider to be appropriate.
- b) Whether to inform other interested parties as it considers necessary, for example owners and occupiers of neighbouring land.

If we determine land as contaminated land, we shall give notice of that fact to (a) the Environment Agency; (b) the owner of the land; (c) any person who appears to the authority to be in occupation of the whole or any part of the land; and (d) each person who appears to the authority to be an appropriate person; in accordance with section 78B(3) of Part 2A. In respect of point (d)

this Guidance recognises that in some cases the authority may not have identified the appropriate person(s) at the time the determination is made, in which case the requirement to give notice to such persons would not apply. (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

6.15 Postponing determination

We may decide to postpone a determination of contaminated land if the landowner or another person undertakes to deal with the land in question without determination and if we are satisfied that the remediation will be undertaken to an appropriate standard and timescale. Postponement does not affect our ability to determine the land in the future if works are not undertaken as agreed.

In addition we may decide to postpone a determination of contaminated land if a significant contaminant linkage would only exist if the use of the land were to change in the future. Should this be the case then the site will be kept under review and take reasonable steps to ensure that a postponement does not create conditions under which significant risks could go unaddressed in the future. (Contaminated Land Statutory Guidance, 2012, www.wigan.gov.uk).

6.16 Record of the determination of contaminated land

Following a determination of contaminated land we will prepare a written record in accordance with Sections 5.17 to 5.19 of the Statutory Guidance.

6.17 Reconsideration, revocation and variation of determinations

The introduction of the revised Statutory Guidance in April 2012 allows a local authority to reconsider any determination of contaminated land if it becomes aware of additional information, which it considers significantly alters the basis for its original decision, allowing for the retention, variation or revocation of the determination in accordance with Sections 5.21 and 5.22 of the Statutory Guidance. (Contaminated Land Statutory Guidance, 2012, www.gov.uk).

It should however be noted that this is only intended to apply to those determinations made after the introduction of the revised Statutory Guidance in April 2012 or to those sites that have not yet been remediated but were determined before April 2012.

6.18 Making determinations in urgent cases

If we consider there is an urgent need to determine particular land, we will make the determination in a timescale considered appropriate to the urgency of the situation.

6.19 Urgent action

Urgent action must be authorised where Wigan Council is satisfied that there is imminent danger of serious harm or serious pollution of controlled waters being caused as a result of contaminated land. In such circumstances the procedures identified in the statutory guidance will be followed which may involve use of powers of entry.

Wigan Council will initiate the remediation in urgent cases where it is the enforcing authority if it is of the opinion that the risk would not be mitigated by enforcement action. In the case of a potential special site Wigan Council will notify and consult with the Environment Agency. In appropriate cases Wigan Council will seek to recover costs of remediation works it has completed.

6.20 Liability and costs

Land may be declared contaminated land with the identification of only one significant contaminant linkage. Full liability cannot therefore be determined until all significant contaminant linkages on the site have been identified. When all significant contaminant linkages have been identified liability must be apportioned. This has five distinct stages as follows:

- a. Identifying potential appropriate persons and liability groups;
- b. Characterising remediation actions;
- c. Attributing responsibility to liability groups;
- d. Excluding members of liability groups;
- e. Apportioning liability between members of a liability group.

The process starts with establishing liability groups. All appropriate persons for any one linkage are a, 'liability group'. These may be Class 'A' or Class 'B' persons.

APPROPRIATE PERSONS - Class 'A' - These are, generally the polluters, but can also included those who 'knowingly permitted'.

APPROPRIATE PERSONS - Class 'B' - Where no Class 'A' persons can be found liability reverts to the owner or the occupier of the land. These are known as Class 'B' persons.

The matter of appropriate persons must be considered for each significant contaminant linkage. Therefore where a site has had a series of contaminative uses over the years, each significant contaminant linkage will be identified separately and liability considered for each.

The cost of each remediation action will normally be apportioned between those who remain liable after any exclusion. Section 78F(6) and (7) of the 1990 Act, which provides that:

Section 78F(6): Where two or more persons would, apart from this subsection, be appropriate persons in relation to any particular thing which

is to be done by way of remediation, the enforcing authority shall determine in accordance with guidance issued for the purpose by the Secretary of State whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing.

Section 78F(7): Where two or more persons are appropriate persons in relation to any particular thing which is to be done by way of remediation, they shall be liable to bear the cost of doing that thing in proportions determined by the enforcing authority in accordance with guidance issued for the purpose by the Secretary of State.”
(Contaminated Land Statutory Guidance, www.gov.uk).

The main provisions for the establishment of liability are set out in the Environmental Protection Act 1990; Part 2A and further information can be found within Section 7 of the Contaminated Land Statutory Guidance.

6.21 Future commitments

The actions identified for the implementation of the Contaminated Land Inspection Strategy are:

- to continue to respond to the Council’s strategic management priorities;
- to progress the inspection and remediation of any sites identified as potentially contaminated, in order of priority;
- to continually review progress to ensure that the Council’s objectives and strategic priorities are being fulfilled.

6.22 Contaminated Land Inspection Strategy review

The Council has a duty under Part 2A to keep its Contaminated Land Inspection Strategy under periodic review. The main reasons why we will carry out a review are:

- to see how we are progressing, i.e. to determine whether we are achieving our objectives and priorities;
- to revise and improve procedures;
- to take account of changes in legislation;
- to take account of the establishment of significant case law or precedent;
- to take account of changes in guidance for dealing with land contamination (in particular, risk assessment techniques, guideline values, etc.);

- to reflect changes in council policies and strategies.

6.23 When will we review the Contaminated Land Inspection Strategy?

It is considered appropriate to carry out a review of this Contaminated Land Inspection Strategy within five full years of implementation, i.e. before April 2020. Thereafter, reviews will be carried out on a five yearly basis, or less where necessary.

This is considered to be the most efficient and effective way of not only making sure the Contaminated Land Inspection Strategy is up to date and reflects current practice, but also that it is realistic and achievable.

6.24 How will we review the Contaminated Land Inspection Strategy?

The review will be carried out by those implementing the Strategy, who will also consult with other Service's across Wigan Council, as considered necessary. Consultation with external organisations will also be carried out as deemed necessary. Discussions will also be held with the Environment Agency which, as part of its statutory duty under Part 2A, has to assess each local authority Contaminated Land Inspection Strategy and it's effectiveness in it's report on the state of Contaminated Land. Any suggested changes to the Strategy will then be reported, for approval, to the Council.

Details of all significant proposed changes will be sent to the various statutory and public authorities listed in Appendix A for consultation.

Following the consultation period, the Contaminated Land Inspection Strategy document will be revised and re-published. The changes to the Strategy will then be adopted and implemented.

Appendix 1

Statutory and Regulatory Authorities:

- **Environment Agency**
- **English Heritage**
- **Natural England**
- **Public Health England**

Wigan Council Internal Consultees:

- **Planning**
- **Legal Services**
- **Property Services**
- **Public Health**