



Contaminated Land Inspection Strategy

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Executive Summary

In July 2000 the Part IIA statutory regime for the identification, investigation and remediation of contaminated land was established in accordance with legislation and Statutory Guidance. The Council published its first inspection strategy in 2001 which set out its priorities, objectives and actions to fulfil its duties and to protect the wellbeing of the community and to safeguard the environment. Whilst development sites and future use of the land continue to be dealt with under the Town and Country Planning (Scotland) Act, Part IIA mainly deals with the historic industrial legacy in relation to the current use of land outwith other pollution control regimes. The Council is lead regulator although defined “Special sites” are subject to regulation by SEPA.

The Part IIA legislation adopts the “suitable for use” approach in order to ensure that remedial action is only undertaken where contamination presents an unacceptable risk to human health or the wider environment assessed in the context of the current use and circumstances of the land. Only land where unacceptable risks are clearly identified after a risk assessment has been undertaken and strictly in accordance with the Statutory Guidance should be considered as meeting the Part IIA definition of contaminated land. No land in Argyll and Bute has met this Part IIA definition.

Following an initial risk-rating exercise a number of sites identified as higher risk were subject to inspection in a programme which was completed and reported in the last review of the strategy in 2012. This strategy, which was adopted by the Council in March 2012, included a provision that further inspection of sites would only be undertaken on a reactive basis if further information came to light and if a site was determined to be high risk. No further high risk sites have been identified to date and the review of the strategy has concluded that this approach remains appropriate and it is proposed for this to be continued until the next review.

The strategy is that there will be no proactive assessment or monitoring of sites. Resources will be targeted on proposed developments through the Local Development Plan or formal applications under development management and also directed towards existing sites on a reactive basis where further information comes to light which cause it to be judged high risk.



Regulatory Services Manager
20th May 2020

1 INTRODUCTION

The statutory regime for the identification and remediation of contaminated land came into force in Scotland in July 2000. The regime is implemented via Part IIA of the Environmental Protection Act 1990 (Part IIA), the Contaminated Land (Scotland) Regulations 2000 as amended and Statutory Guidance Edition 2 (Paper SE/2006/44) published by the Scottish Government in May 2006 ("Statutory Guidance"). Local authorities have a duty to carry out inspections for the purpose of identifying contaminated land within their area where there has not been any identifiable breach of a pollution prevention regime. In developing a strategic approach to its inspection duty the Argyll and Bute Council (the Council) published a written inspection strategy which it formally adopted in October 2001. Revisions were adopted in October 2006 and February 2012.

The main aim underlying the introduction of the Part IIA regime is to provide an improved system for the identification and remediation of land where contamination is causing unacceptable risks to human health or the wider environment, assessed in the context of the current use of the land. The Scottish Government's primary objectives with respect to contaminated land are:

- a) to identify and remove unacceptable risks to human health and the environment;
- b) to seek to bring damaged land back into beneficial use;
- c) To seek to ensure that the cost burdens faced by individuals, companies & society as a whole are proportionate, manageable and economically sustainable

Other expected outcomes of the implementation of Part IIA are:

- To encourage voluntary remediation of land;
- To provide greater scope for companies who may be responsible for contamination to plan their own investment programmes to carry out remediation in advance of actual regulatory intervention;
- To reduce uncertainties about 'residual liabilities' so that the reuse of previously developed land can be encouraged.

Part IIA is not the only legislation that is relevant to the management of land contamination. The planning and development control system is the key mechanism for managing land contamination as part of the wider process of land redevelopment and regeneration. Powers to deal with contamination are also available in terms of the waste management licensing and pollution, prevention and control provisions of the Environmental Protection Act 1990, and health and safety at work legislation.

The primary responsibility for enforcing the provisions of the contaminated land regime rests with local authorities and complements their roles as planning authorities. In addition, the Scottish Environment Protection Agency (SEPA) has responsibilities for ensuring remediation of 'special sites', providing information and

advice to local authorities in relation to radiation, pollution of the water environment and publishing reports on the state of contaminated land.

1.1 Regulatory context

1.1.1 Regulatory role of local authorities under Part IIA

Local authorities are the principal regulators in terms of Part IIA. The main responsibilities and powers assigned to local authorities are:

- To cause their areas to be inspected in order to identify contaminated land.
- To establish who may be the Appropriate Person(s) to bear responsibility for remediation of land identified as contaminated
- To decide, after consultation, what remediation might be required in any individual case and ensure that such remediation takes place, by serving a remediation notice where necessary
- To record information on a public register about their regulatory actions.
- The powers to recover the cost of remediation undertaken by the authority itself.
- To decide whether any contaminated land should be designated a Special Site.

In addition local authorities are obliged to set out their approach to inspection in a written strategy which is the role fulfilled by this document and is subject to periodic review.

1.1.2 Regulatory role of the Scottish Environment Protection Agency

The Scottish Environment Protection Agency (SEPA) has an important complementary regulatory role under Part IIA. This role includes:

- The provision of information and advice, including site specific guidance, to local authorities.
- Ensuring the remediation of Special Sites.
- Powers to recover costs for remediation SEPA undertakes itself.
- A duty to maintain a public register of Special Sites.
- The preparation of a national report on the state of contaminated land.

The Contaminated Land (Scotland) Regulations 2000 as amended define “Special Sites”. The following descriptions of land are included within the definition:

- Land where the water environment is being polluted in a manner, or by substances, defined in the Regulations.
- Land which is contaminated by waste acid tars.

- Land upon which the refining of petroleum has been carried out.
- Land where the manufacture of explosives has taken place.
- Land on which a prescribed process designated for central control is being, or has been, carried on.
- Land within a nuclear site.
- Land owned or occupied by the Ministry of Defence.
- Land where the manufacture of chemical weapons has taken place.
- Land which is contaminated by radioactivity possessed by any substance in, on or under that land.

1.1.3 Definition of contaminated land under Part IIA

Section 78A(2) defines contaminated land for the purposes of the contaminated land regime 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 significant harm is being caused or there is a significant possibility of such harm being caused; or significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused.”

Therefore, although land may be polluted, unless it presents a significant risk to a receptor such as a human being or water used for drinking, the mere presence of a former contaminative use does not require action by the local authority.

It should be noted that all future references to contaminated land within this document refer to the statutory definition described above.

1.1.4 Principles of risk assessment

The definition of contaminated land is based upon the principles of risk assessment. Statutory Guidance defines risk as a combination of:

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

The definition of contaminated land is based upon this established approach to risk assessment.

1.1.5 Principles of pollutant linkages

A pollutant linkage is the relationship between a contaminant, a pathway and a receptor. A ‘pollutant’ is the contaminant in a pollutant linkage. Unless all three elements of a pollutant linkage are identified in respect of a piece of land, the land will not be identified as contaminated land.

There are two steps in applying the definition of contaminated land:

Step One:

The local authority must satisfy itself that a contaminant, a pathway and a receptor have been identified with respect to any land.

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

A **RECEPTOR** is either:

- A living organism, a group of living organisms, an ecological system, or property which is in a category listed in Table A of Statutory Guidance (Appendix 3) and summarised below in Table 1.1 and is being, or could be, harmed by a contaminant; or
- The water environment as defined in Section 78A(9) of the 1990 Act, which are being, or could be, polluted by a contaminant or
- Human beings

A **PATHWAY** is one or more routes, or means by or through which a receptor is being exposed to, or affected by, a contaminant, or could be so exposed or affected.

Step 2:

The local authority must satisfy itself that both a **pollutant linkage** exists in respect of a piece of land and that the pollutant linkage:

- Is resulting in **significant harm** being caused to the receptor in the pollutant linkage (Appendix 3) or
- Presents a **significant possibility of significant harm** being caused to that receptor (Appendix 4) or
- Is resulting in the **significant pollution of the water environment** which constitutes the receptor or
- Is **likely to result in significant pollution of the water environment**

Table 1.1 Types of receptor.

Human beings.

Any **ecological system**, or living organism forming part of such a system, within a location which is:

- an area notified as an area of special scientific interest under Section 3 of the Nature Conservation (Scotland) Act 2004;
- any land declared a national nature reserve under Section 35 of the Wildlife and Countryside Act 1981;
- any area designated as a marine nature reserve under Section 36 of that Act;
- an Area of Special Protection for Birds, established under Section 3 of that Act;
- any European Site within the meaning of Regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994;
- any candidate Special Areas of Conservation or potential Special Protection Areas;
- any habitat or site afforded policy protection;
- any nature reserve established under Section 21 of the National Parks and Access to the Countryside Act 1949; or
- any National Park designated under the National Parks (Scotland) Act 2000.

Property in the form of:

- crops, including timber;
- produce grown domestically, or on allotments, for consumption;
- livestock;
- other owned or domesticated animals;
- wild animals which are the subject of shooting or fishing rights.

Property in the form of buildings.

The water environment, which include inland waters (rivers, streams, canals, lakes and reservoirs), ground waters (any water contained in underground strata, wells or boreholes), territorial waters and coastal waters.

1.1.6 Requirements for a strategic approach

In carrying out its inspection duty, the local authority is required to take a strategic approach to the identification of land that merits detailed individual inspection. This approach must:

- Be rational, ordered and efficient
- Be proportionate to the seriousness of any actual or potential risk
- Seek to ensure that the most pressing and serious problems are located first
- Ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land, and
- Ensure that the local authority efficiently identifies requirements for the detailed inspection of particular areas of land.
- Have regard to the work already undertaken in support of previous strategies

In adopting this strategic approach, the local authority is required to reflect local circumstances.

1.2 Development of the strategy

The original strategy document was published in October 2001 and was subsequently revised in 2006 and 2012. It was developed with regard to the technical guidance issued by the Scottish Government in July 2001 (Contaminated Land Inspection Strategies Advice for Scottish Local Authorities) and the revised document dated May 2006. The content and layout of this revision reflects the outline contained within the guidance.

1.3 Objectives of the strategy document

- To meet the requirements to maintain and publish a written strategy
- To detail the strategic approach that Argyll and Bute Council has adopted when carrying out its inspection duties and priorities
- To provide information to the Scottish Environment Protection Agency for the purposes of its report on contaminated land
- To provide a mechanism for review of the Council's approach to the inspection of contaminated land

- To provide a mechanism for Council Members to direct the approach taken to dealing with contaminated land within Argyll and Bute and fulfil the obligations of the Council in relation to its own land
- To avoid the unnecessary blight of land

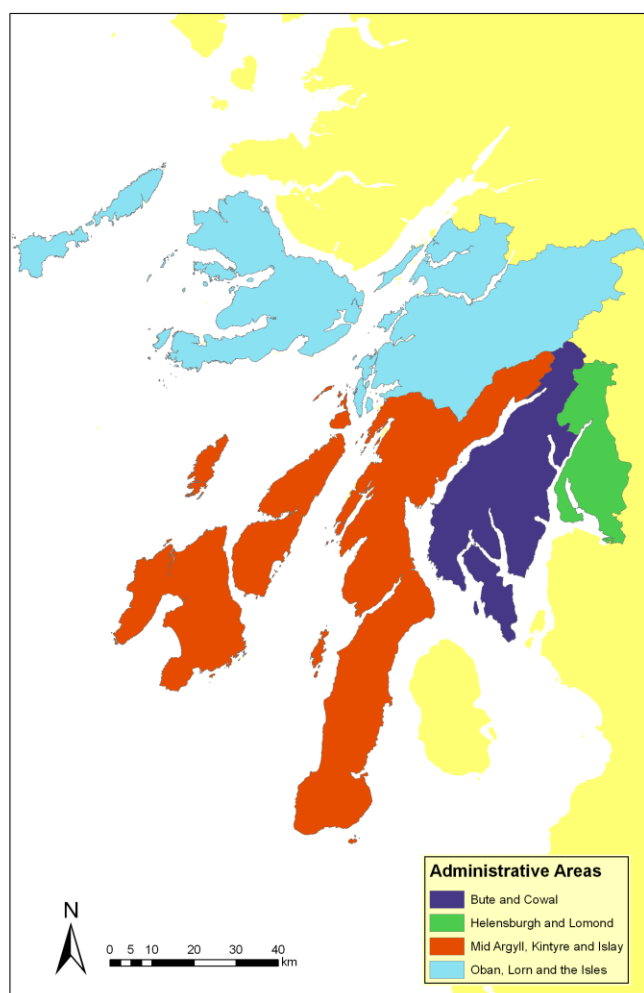
2 CHARACTERISTICS OF THE ARGYLL AND BUTE COUNCIL AREA

2.1 Brief description

Geographically, Argyll and Bute is the second largest Local Authority in Scotland, with a land area of 6900 km². The area has a notably diverse topography, including 20 mountains over 3000 feet, a coastline in excess of 4500 km, numerous peninsulas separated by deep sea-lochs, and 23 inhabited islands.

The present Unitary Authority of Argyll & Bute Council was created in 1996 by the amalgamation of Argyll and Bute District Council with the Helensburgh and Lomond area of Dunbartonshire District Council. The Authority shares land boundaries with Highland, Perth & Kinross, Stirling and West Dunbartonshire Councils. Loch Lomond and Trossachs National Park Authority is responsible for planning matters within the area of the National Park.

Argyll and Bute Council head office is located in Lochgilphead, however many of the Council's functions are devolved to the administrative areas of: Bute and Cowal; Helensburgh and Lomond; Mid-Argyll, Kintyre and Islay; Oban, Lorn and the Isles.



2.2 Population distribution

The average population density of Argyll and Bute is less than 13 people per square kilometre with 43% of the population living in areas classified by the Scottish Government as 'remote rural' (Table 2.1.)

Table 2.1 Classification of Population Distribution			
Scottish Government Urban-Rural classification	Population living within classification	% total population	% of total land area
1: Large urban areas	0	0.0	0.00
2: Other urban areas	15610	18.0	0.10
3: Accessible small towns	3700	4.3	0.03
4: Remote small towns	26690	30.7	0.19
5: Accessible rural	3400	3.9	3.30
6: Remote rural	37410	43.1	96.38
Total	86810	100.0	100.0

Over 47,000 people live in the six main population centres of Campbeltown, Dunoon, Helensburgh, Lochgilphead, Oban and Rothesay (Table 2.2). Around 17% of the population live on islands. Table 2.2 shows that the total projected population will decrease only slightly, but changes within the four administrative areas may be greater.

Table 2.2 Main Population Centres and their Populations	
Campbeltown	4670
Dunoon	9140
Helensburgh	15610
Lochgilphead/Ardrishaig	3590
Oban	8490
Rothesay	4390
Total	45890

Table 2.3 Projected Population to 2026 000s				
2017	2020	2023	2026	% change
86.9	86.1	85.1	84.1	-2.3%

2.3 Argyll and Bute Council ownership of land

Council records show Argyll and Bute Council to own or lease over 1200 properties (excluding housing), ranging from public conveniences and war memorials to landfill sites, ferry terminals and airfields. The Council is also responsible for 2250 km of public road.

In order to maintain a strategic approach to inspection, the assessment of land in which Argyll and Bute Council may have an interest will be incorporated into the methodology for prioritising sites for inspection outlined in Section 4.

2.4 Current land-use characteristics

Argyll and Bute is classed as almost exclusively remote rural (Table 2.1), with farming and forestry as the two primary land-uses. Agricultural and forested areas also double as an important recreational resource for residents and visitors.

A relatively small proportion of land is used for a diverse range of industrial activities which may represent potential sources of contamination. The nature and location of these has been taken into account when prioritising land for detailed inspection

2.5 Geology

Argyll and Bute has a complex geological history. The western extremities are comprised of Lewisian Gneiss, some of the oldest rocks in Europe at 1600 million years old (1600 Ma). The bulk of Argyll and Bute, lying between the Highland Boundary Fault and the Great Glen Fault, consists of a vast and varied assemblage of Dalradian metamorphics, dating from around 600 Ma. Overlying the Dalradian rocks in various locations are sedimentary deposits and lavas of Devonian and Carboniferous age (400 to 300Ma). A number of granitic intrusions also date from the Devonian period. North of the Great Glen Fault, the Isle of Mull exhibits the intrusive and extrusive igneous features of a Tertiary Volcanic Centre (65 Ma).

Over the past two million years the area has been heavily denuded by repeated glaciations, resulting in the distinctive topography seen today. Glacial and fluvio-glacial deposits can be found in most valley and coastal locations. Considerable peat formations have developed in places during the 10,000 years since the retreat of the most recent glaciers.

In the context of contaminated land, geology can represent a source, a pathway or a receptor. However, the geology of Argyll and Bute is so locally variable that generalisations are impossible and each area of potentially contaminated land must be considered on an individual basis.

2.6 Hydrogeology

Most of the solid geology of Argyll and Bute is classed as “weakly permeable” - formations of generally low permeability that do not widely contain groundwater in exploitable quantities. The main exceptions occur in the Helensburgh area, southern Bute and south of Campbeltown where the geology is classed as “highly permeable”, and may represent a significant groundwater resource.

Moderately permeable drift deposits of marine, alluvial and glacial origin occur throughout Argyll and Bute. These seldom produce large quantities of water for abstraction, but are important for local private supplies and for supplying base flows to rivers.

Hydrogeological features may be of major importance when considering site-specific pollution linkages, and all available hydrogeological information will be used when prioritising sites for detailed inspection.

2.7 Protected natural heritage

Argyll and Bute is renowned for its natural heritage, and this is reflected in the number of protected sites, including:

- 121 Sites of Special Scientific Interest (83 biological, 22 geological, 16 mixed)
- 6 National Nature Reserves
- 22 Special Protection Areas
- 30 Special Areas of Conservation
- Lomond & Trossachs National Park

For the purposes of the contaminated land regime, each of these protected sites shall be regarded as a potential receptor.

2.8 Protected built heritage

The area is rich in sites of architectural, historical and archaeological importance, including:

- 2821 Listed Buildings
- 802 Scheduled Ancient Monuments

Under Part IIA, Scheduled Ancient Monuments are classed as potential receptors.

2.9 Water resource / protection issues

Water quality in Argyll and Bute is generally good or excellent. Surface waters are used extensively for public and private water supplies, agriculture, aquaculture, leisure and industry. Coastal waters support fish farming, fishing and leisure activities. The quality of all waters is an important factor in the popularity of the area as a tourist destination. The Argyll and Bute area includes 4 designated bathing waters and 45 designated shellfish harvesting areas.

Significant aquifers are mainly limited to the area south of the Highland Boundary fault i.e. around Helensburgh, southern Bute and south of Campbeltown. Surface waters and springs are commonly used for private water supplies throughout Argyll and Bute.

The water environment may be regarded as both a receptor and/or a pathway in a pollution linkage.

2.10 Known information on industrial sites

The analysis of historical Ordnance Survey 1:2500 mapping and collation of information from a range of other sources has enabled the Council to identify sites with a previous industrial use. This process was started in 2001 and was completed by the end of 2002. The information is stored in a database and sites are able to be presented on the Council's Geographical Information System (GIS). Further information is available from contemporary maps and other sources and is added to the GIS as appropriate.

2.11 History of land redevelopment

Until the implementation of the Part IIA regime there had been no co-ordinated effort to identify and redevelop areas of polluted land in Argyll and Bute. In the past, contamination issues have been dealt with through the planning process, but this generally only considered risks to the proposed development and end users, and may not have considered risks to other receptors. When implementing this strategy, it cannot be assumed that previously developed areas have been remediated to the degree required by Part IIA.

2.12 Potential sources of contamination caused by human activity

Despite its rural nature, Argyll and Bute has a wide and varied history of industrial land use. Of the 39 main industrial land use categories most likely to cause contamination, 31 are known to have been undertaken in the Argyll and Bute Council area. However, with few exceptions the scale of industrial use has been limited and widely dispersed.

Argyll and Bute has a long history of military activity, resulting in a large number of active and disused military establishments. Some of these sites may have experienced potentially contaminating activities.

It is recognised that “the water environment” includes coastal waters up to the three mile limit, and that there are a number of potentially contaminated marine sites, including munitions dumps and torpedo firing ranges.

2.13 Potential sources of contamination – natural

Peat formations are commonplace across Argyll and Bute. Biodegradation of organic materials in peat bogs can produce ‘bog gas’, which may include carbon dioxide or the flammable gas, methane. If confined in buildings, carbon dioxide can be toxic or asphyxiant and methane from peat bogs can present an explosion hazard if present in sufficient volume and concentrations.

Rocks and soils often contain natural concentrations of potentially harmful elements. These concentrations can be hazardous to human and ecological receptors, and are particularly relevant in rural areas where many households rely on private water supplies. Parts of Argyll and Bute are known to be naturally enriched in arsenic, lead, copper and nickel. Information on naturally occurring elements in stream sediments from the British Geological Survey complements the data obtained from historic maps and others sources.

The radioactive decay of uranium in some geological formations can produce radon gas. Radon itself is radioactive and can reach harmful levels when trapped in buildings. Risks due to the presence of natural radioactive substances are specifically excluded from Part IIA, and are therefore not within the scope of the Contaminated Land Inspection Strategy. Legislation to extend the Part IIA regime to cover radioactively contaminated land associated with industrial or military use has been introduced. The legislation requires that such sites are designated as “Special Sites” and designates SEPA as the authority for inspecting and identifying such sites with relevant information being provided by the Council when appropriate.

3 ARGYLL AND BUTE COUNCIL: OVERALL AIMS

3.1 Aims of the strategy

- To ensure compliance with and enforcement of Part IIA of the Environmental Protection Act 1990, inserted by Section 57 of the Environment Act 1995
- To protect, in order of priority:
 - 1) Human health
 - 2) The water environment
 - 3) Designated ecosystems
 - 4) Property
- To ensure that where redevelopment of land takes place within Argyll and Bute, the planning process deals effectively with any land contamination so that the land is suitable for its intended use and thus to avoid determination under Part IIA.
- To address the liability issues associated with the Council's existing and former land holdings and avoid any new liability associated with land transactions
- To encourage, as far as possible, voluntary remediation
- Review sites identified in the Council's Local Plan for development to assess potential risks

3.2 Objectives and outputs

- To carry out Argyll and Bute Council's inspection duty in a strategic manner considering
 - a) Any available evidence that significant harm to land-based receptors or pollution of the water environment is being caused;
 - b) The extent to which any receptor is likely to be found in any of the different parts of the local authority area;
 - c) The extent to which any receptors are likely to be exposed to a contaminant;
 - d) The extent to which information on land contamination is already available;
 - e) The history, scale and nature of industrial or other activities which may have contaminated the land in different parts of its area;
 - f) The nature and timing of past redevelopment in different parts of the area;
 - g) The extent to which remedial action has already been taken by Argyll and Bute Council or others to deal with land-contamination problems or is likely to be taken as part of an impending redevelopment; and
 - h) The extent to which other regulatory authorities are likely to be considering the possibility of harm being caused to particular receptors or the likelihood of any pollution of the water environment being caused in particular parts of the area.
- To provide a mechanism for consultation with SEPA and other appropriate bodies.
- To allow for the periodic review of Argyll and Bute Council's policy for dealing with contaminated land.

- To identify those development sites which may be potentially contaminated and to ensure:
 - a) the planning application is not approved until a site investigation with respect to contamination has been undertaken, and any necessary remedial works have been identified and approved; or
 - b) planning permission is granted subject to conditions relating to the further investigation of the site and the carrying out of necessary remedial works prior to the development commencing or being occupied as appropriate.
- To provide Development Control with data in a format which will assist in the identification of potentially contaminated land.
- To assess land for which Argyll and Bute Council may be the “appropriate person”.

4 STRATEGY IMPLEMENTATION

4.1 Review of Progress

The Council's strategy published in 2001 introduced a programme of work to implement the requirements of the contaminated land regime, reflecting the nature of the area and the aims and objectives of the Authority which were described in Section 3. The sections below provide a summary of progress.

4.1.1 Stage 1 - Identification and initial prioritisation of sites

In 2002 the Council obtained all available historic maps for its area covering the period from 1860 to the present day. The majority were large scale 1:2500 maps but some post-war mapping was to 1:10000 or 1:10560 scale. The maps were georeferenced which meant that they could be included as layers in the Council's GIS. Sites of an industrial nature were identified on each sheet and a polygon drawn around the boundary of the site and stored in a geodatabase. Polygons were drawn for each period (or epoch) of mapping and the GIS allowed the history of development on each site to be plotted on both historic and current mapping. The information will be also managed so that the potential for contamination at a site may be considered as part of the planning process.

Historic mapping necessarily leaves gaps between editions, particularly in the period 1920 to 1960. There are other sources of information such as local history references that are sources of valuable information and may be used where relevant. Coverage of rural areas by many editions of Ordnance Survey mapping is limited.

Details of sites identified from the GIS and other sources are stored in a database and prioritisation system. The prioritisation model calculates a score based on the contaminative potential of a site and its sensitivity based on relevant receptors. This process was completed in 2003 and is repeated when necessary if further information is received relating to new or existing sites.

4.2 Stage 2 - Inspection of sites and further action

Sites are screened to confirm the scoring and determine priority and requirement for further action. Data obtained from submissions associated with planning applications may further inform this process. Generally speaking those sites that have been dealt with under planning would not need further assessment under Part 2A unless more sensitive receptors are subsequently introduced. Resources are focused onto those sites identified by the prioritisation model having particular regard to the receptors. Under the previous strategies priority has been afforded to receptors in the following order:

1. Human beings
2. Water environment
3. Ecological sites (national nature reserves, special areas of conservation, sites of special scientific interest etc.)
4. Property in the form of crops, livestock etc.
5. Property in the form of buildings

Inspection and further action is undertaken in a series of steps with progression to the next step determined by the outcome of the current action.

4.2.1 Step 1 – Site Inspection

A site visit is undertaken to confirm the key information input into the prioritisation model and to determine if the current profile matches that against which the latest prioritisation exercise was undertaken. The visit also allows indicators of contamination to be identified which are a further means of identifying higher risk sites. The decision will be made to mark the site for no further action (unless further information comes to light or a change of use prompts the submission of a planning application) or progression to Step 2.

4.2.2 Step 2 – Phase 1 Desk Study

A desk study will typically involve the collation of further data and the development of a Conceptual Site Model (CSM) and a qualitative risk assessment. Depending on the outcome the site will be marked for no further action (unless further information comes to light or a change of use prompts the submission of a planning application) or progression to Step 3.

4.2.3 Step 3 – Phase 2 Intrusive Investigation

A Phase 2 investigation usually involves the collection and analysis of samples of soil, surface water, ground water and ground gas at different depths depending on parameters such as hydrology, geology, hydrogeology and previous land use. The results of a Phase 2 investigation will be used to refine the CSM and carry out a further qualitative risk assessment. Depending on the outcome further investigation and detailed quantitative risk assessment may be recommended, the implementation of a remediation scheme, or the site will be marked for no further action (unless further information comes to light or a change of use prompts the submission of a planning application).

4.3 Investigation of sites outwith the prioritisation model

There may be instances where information is received about sites that have not been entered into the prioritisation model. The information will be screened and if considered appropriate it will be entered into the prioritisation model to determine the priority for future action or inspection.

4.4 Maintenance of the Contaminated Land Inspection Strategy

The Council's inspection strategy, setting out how Argyll and Bute Council proposes to exercise its duties in terms of the contaminated land regime, has been developed as described in Section 1.2. The Strategy is consistent with the requirements of the Statutory Guidance and Technical Advice issued by the Scottish Government. The documentation aims to ensure that all those affected by, and involved in the investigation of contaminated land will have the same understanding of the rationale for inspection, how inspection will be carried out and over what timescales.

4.5 Further Investigation

The information gained from the identification of potentially contaminated sites and receptors provides the basis for further investigation when necessary. Many sites with a historically contaminative use will not be subject to further investigation because there are no relevant receptors or possibly because remediation work has already been carried out.

4.6 Site Specific Risk Assessment

If previous investigations suggest that a site may be determined as contaminated land a site specific risk assessment will be undertaken for each site in order of priority. This stage will establish whether or not land requires to be determined as contaminated and progression towards remediation.

4.7 Working with landowners and polluters to encourage voluntary remediation

Argyll and Bute Council will encourage the voluntary remediation of land through liaison and consultation with land owners, polluters and other interested bodies. Mechanisms for liaison are identified in Section 6.

4.8 Status of Site Inspection Programme

Argyll and Bute Council's approach has been to prioritise all known sites where there has been a previous industrial use in line with the process outlined in Section 5.6. Prior to the publication of the previous strategy in 2012 the Council's programme of inspecting and investigating those sites with the highest scores in the prioritisation model had been completed and no complete Source – Pathway – Receptor pollutant linkages were identified. No sites have been determined as contaminated land and only those lower risk sites that are unlikely to be associated with any complete Source-Pathway-Receptor pollutant linkage remain. It is not proposed to continue with a proactive inspection regime but to take action to undertake site assessments where further information is obtained and circumstances warrant.

5 PROCEDURES

5.1 Internal management arrangements for inspection and identification

The responsibility for the implementation of Part IIA lies with Environmental Health section of Development and Economic Growth within the Development and Infrastructure directorate. It is, however, recognised that during the development and implementation of the contaminated land strategy many other Council Services will be involved as necessary.

5.1.1 Regulatory Services Manager

The Regulatory Services Manager bears the overall responsibility for the production and implementation of the contaminated land strategy through the proper allocation of resources and liaison with Council Members, the Head of Development and Economic Growth, Executive Director responsible for Development and Infrastructure and other Heads of Service.

5.1.2 Environmental Health Manager (East)

The Environmental Health Manager (East) is responsible for the delivery and operational management of the contaminated land strategy.

5.1.3 Environmental Protection Officer

The lead officer for matters relating to contaminated land is the Environmental Protection Officer reporting to the Environmental Health Manager (East) and supported by area based Environmental Health staff. The Environmental Protection Officer is responsible for the practical implementation of the Council's contaminated land strategy.

5.1.4 Council Members

The Argyll and Bute Council Planning, Protective Services and Licensing Committee bears the responsibility for the adoption of the contaminated land strategy and any subsequent amendments to it.

The Council will consider the allocation of resources for the purposes of the contaminated land regime and in particular where it is considered that the Council may be the 'appropriate person' in relation to a site which requires remedial works to be undertaken.

5.2 Argyll and Bute Council's interests in land

The Statutory Guidance obliges local authorities to identify procedures for considering land for which they may themselves have a responsibility by virtue of current or former ownership or occupation.

Where it appears that the local authority may be an appropriate person, notice will be given to the Director of the Service which currently exercises, or formerly exercised, control over the land. The Planning, Protective Services and Licensing Committee will be kept apprised of the progress of this strategy, and issues arising from it.

The responsibility for determining liabilities for future property transactions will lie with the Service undertaking the transaction.

5.3 Information collection

Technical guidance provides an indication of the sources of information which may be referred to when identifying potentially contaminated sites. Having regard to such guidance, Environmental Health will continue to gather information which will be analysed to provide an assessment of sites likely to contain contaminants and provide a basis for further investigation and action. Where possible the information will be held in the Council's Geographic Information System or in a format appropriate to effective retrieval and use.

The Statutory Guidance requires the local authority to identify specific arrangements for obtaining information from other statutory organisations and these arrangements are included at Section 5.3.4.

5.3.1 Information on the possible sources of contaminants (Table 5.1)

Table 5.1 Potential Sources of Information on Pollution.	
Source	Content
Landmark	Historical mapping covering six epochs: 1865-1895, 1896-1900, 1918-1922, 1965-1970, 1975-1990, 1991-1995
National Library for Scotland	Historical mapping
Ordnance Survey	Recent/current mapping.
Ministry of Defence	Property holdings.
	Site investigation reports.
Health and Safety Executive	Information on potential releases.
	Information on previous incidents.
Scottish Water	Monitoring information
	Location of sewage treatment works
Scottish Environment Protection Agency	Monitoring information.
	Waste management licences.
	Permitted processes.
	Consents to discharge into the water environment.
	Evidence of actual harm or pollution.
	Radioactive substance register.
	Complaints.
ABC Trading Standards	Petrol station licenses.
Development Control	Historical site investigation reports.
ABC Roads & Infrastructure Services	Landfill sites.
ABC Commercial Services	Council owned properties.
British Geological Survey	Stream sediment geochemistry.
Trade Directories	Past industrial activities.
Scottish Government	Vacant and derelict land survey.
Library & Archives	Historical land use and activity.

Local Historical Societies	Historical land use and activity.
Landowners / Developers	Site investigation reports.

5.3.2 Information on potential receptors and pathways (Table 5.2)

Table 5.2 Sources of information on Potential Receptors and Pathways	
Source	Content
Scottish Natural Heritage	Ecological receptors.
British Geological Survey	1:50000 solid and drift geology.
	Groundwater vulnerability.
	Borehole locations.
Historic Scotland	Listed buildings, ancient monuments.
Scottish Environment Protection Agency	Water quality.
	Soil quality (limited information).
James Hutton Institute	Soil quality.
Scottish Water	Water quality.
Health Boards	Local health effects and statistics.
Ordnance Survey	Location of receptors and pathways.

5.3.3 Other information

Anecdotal information will be collected and examined during the implementation of the strategy as appropriate.

5.3.4 Specific Information from other statutory bodies

In addition to the information identified in Sections 5.3.1 to 5.3.2, regulatory authorities may be able to provide specific information relevant to the identification of contaminated land as a result of their complimentary functions. It is recognised that SEPA in particular will, upon request, provide information regarding the identification and designation of Special Sites and may provide site-specific advice if asked to do so. In addition, SEPA has statutory powers to provide information following receipt of a notification of contaminated land. A policy for local authority/SEPA liaison has been agreed.

5.4 Information and complaints

It is recognised that information brought to the attention of Environmental Health may impact upon the approach to inspection identified within the Strategy.

5.4.1 Complaints and enquiries

Environmental Health will respond to all complaints and enquiries in accordance with Council procedures. Any complaint or enquiry received which indicates that a site may be classed as an 'urgent site', will be dealt with as defined within Section 4.3.

The Environmental Protection Officer in consultation with the Environmental Health Manager (East) will decide what, if any, further investigation is required as a result of a complaint or enquiry and what effect the information made available may have on the prioritisation of sites for further inspection.

5.4.2 Information

Environmental Health will actively seek information relating to the potential for contaminated land. Any information received will be managed, for the purposes of the identification of contaminated land, as identified in the Strategy.

5.4.3 Confidentiality

All persons making a service request, or addressing an enquiry to Environmental Health, will be asked to supply their names and addresses, along with any specific information relative to the complaint or enquiry. Failure to provide this information will not preclude the acceptance of any request.

The identification of complainants and enquirers will, as far as practicable, be avoided, having regard to other confidentiality issues dealt with in Section 9. The identity of a complainant may not be kept confidential if they were subsequently found to be an appropriate person, or the information supplied was to be used as material evidence in an appeal.

5.4.4 Anonymous information and enquiries

Anonymous information and enquiries will be dealt with in terms of the Environmental Health existing procedures.

Any anonymous complaint or enquiry received which indicates that a site may be classed as an 'urgent site', will be dealt with as defined within Section 4.3.

The Environmental Protection Officer will use his/her judgement to decide what, if any, further investigation is required as a result of an anonymous complaint or enquiry.

5.5 Interaction with other regulatory regimes

5.5.1 Planning and Building Standards

Argyll and Bute Council is the statutory planning authority for the area outwith Loch Lomond and the Trossachs National Park. Within the boundaries of the National Park the regulatory body for planning matters is the Loch Lomond and the Trossachs National Park Authority. All building standards matters are dealt with by Argyll and Bute Council.

Land contamination can be addressed by the planning system in terms of planning policy, through Structure and Local Plans, and development planning decisions where contamination may be regarded as a material planning consideration. Where land is to be redeveloped, the planning regime considers the future use of the land and is thus more appropriate to deal with contamination issues rather than Part IIA which is only able to consider the current use of the land.

PAN 33 – *Development of Contaminated Land* and PAN 51 – *Planning and Environmental Protection* provide guidance to planning authorities regarding the development of land containing contaminants. In any case where new development

is taking place, it will be the responsibility of the developer to carry out the necessary remediation to ensure the land is fit for the proposed use.

Information collected during the implementation of the contaminated land strategy facilitates the identification of potentially contaminated sites for the purposes of the planning process.

In addition to the planning system, the Building Standards (Scotland) Regulations 2004 may require measures to be taken to protect the fabric of new buildings, and their future occupants, from the effects of contamination.

5.5.2 Pollution of the water environment

The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and amendments give SEPA powers to regulate controlled activities including discharges to surface waters and groundwater. The legislation applies a system of general binding rules, registration and licensing to protect the water environment. There is a potential for overlap between these powers and the Part IIA regime in circumstances where substances in, on or under land are likely to enter the water environment. Part IIA of the Act says that a remediation notice shall not be served where land would otherwise be remediated by virtue of enforcement action under CAR.

5.5.3 Waste Management Licensing

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

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

Secondly, the local authority, acting under Part IIA, cannot serve a remediation notice in any case where the contamination results from an illegal deposit of controlled waste. In these circumstances, SEPA and the local authority have powers to remove the waste and deal with the consequences of its having been present.

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

5.5.4 Pollution Prevention and Control

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

The Pollution Prevention and Control (Scotland) Regulations 2000 require the submission of a report on application for a Part A PPC permit characterising the condition of site at the time of application. A similar report is required on surrender of the permit and shall include a description of the work that will be undertaken to ensure that the site is left in a satisfactory state upon surrender of the permit. The system is intended to prevent further land contamination.

5.5.5 Statutory Nuisance

Following the introduction of the contaminated land regime, most land contamination issues have been removed from the scope of the statutory nuisance provisions contained within Part III of the Environmental Protection Act 1990. Any matter which would otherwise have been a statutory nuisance will no longer be treated as such, to the extent that it consists of, or is caused by, land “being in a contaminated state”. The definition of land which is “in a contaminated state”, and where the statutory nuisance regime is therefore excluded covers all land where there are substances in, on, or under the land which are causing harm or where there is a possibility of harm being caused.

However, it should be noted that the statutory nuisance regime continues to apply to the effects of deposits of substances on land which give rise to such offence to human senses (such as odours) as to constitute a nuisance, since the exclusion of the statutory nuisance regime applies only to harm and the pollution of the water environment.

5.6 Assessment Methods and Prioritisation

In order to progress from the situation where the Council is considering its entire land area to a position whereby individual sites may be considered in more detail a methodology for prioritising sites which is consistent with Argyll and Bute Council’s overall aims and objectives and the Statutory Guidance has been developed. Details of sites from the GIS and other sources are stored in a database and assessed in a prioritisation model. The prioritisation process uses a phased approach and a Risk Score is produced for each phase and refined as further information is obtained.

The Risk Score is based on the nature and age of former industries occupying the site and the sensitivity of the environment at the site including details of receptors and their proximity to the site. A decision is made upon each calculation of the Risk Score whether to designate the site for further action or conclude that a significant pollution linkage does not exist and effectively “mothball” the site. A decision based on the evidence which indicates that the site is not contaminated is recorded in the database. The prioritisation methodology seeks to ensure that the most pressing and serious problems were dealt with and this stage is considered complete. It is proposed to take action on lower priority sites only where further information is obtained and circumstances warrant.

Where Argyll and Bute Council is required to carry out a site specific risk assessment following an intrusive investigation, the relevant data sets will be used to assess the risk to each receptor with reference to appropriate models and standards.

6 GENERAL LIAISON AND COMMUNICATION STRATEGIES

The formulation and implementation of the contaminated land strategy will require collaboration between numerous organisations and individuals, necessitating effective communication and liaison.

The primary contact for contaminated land within Argyll and Bute Council is the Environmental Protection Officer, who may be contacted at the address below:

Argyll and Bute Council
Environmental Health
Development and Economic Growth
Kilmory
Lochgilphead
Argyll PA31 8RT

Tel: 01546 604421

e-mail: envhealth@argyll-bute.gov.uk

6.1 Liaison with Other Bodies

A list of the bodies that may be consulted in matters associated with the contaminated land regime is included at Appendix 1.

Specific liaison arrangements are in place to allow for the effective transfer of information between the local authority and SEPA.

6.2 Communicating with Owners, Occupiers and Other Interested Parties

Where practicable, owners, occupiers, potentially appropriate persons and other parties with an interest in land which may be contaminated will be contacted when it is considered that the land may be determined as contaminated land during the prioritisation process. In all cases the site owner, occupier, or other interested party will be approached prior to a site specific, quantitative risk assessment being carried out.

6.3 Determination of contaminated land

Where the local authority is of the opinion that land is contaminated, within the meaning of Part IIA, a written record of the determination will be compiled to include the following information:

- a) a description of the particular significant pollutant linkage, identifying all three components of pollutant, pathway and receptor;
- b) a summary of the evidence upon which the determination is based;
- c) a summary of the relevant assessment of this evidence; and
- d) a summary of the way in which Argyll and Bute Council considers that the requirements of the Statutory Guidance have been satisfied.

A copy of the record of the determination will be sent to each of the owner, occupier, other potentially Appropriate Person(s) and SEPA.

Following the designation of a site as contaminated, Argyll and Bute Council will seek to encourage voluntary remediation. A statutory three month consultation period will commence upon the issue of the record of determination, in order to confirm any potential appropriate persons and agree upon any remedial action required.

6.3.1 Special Sites

For Special Sites, SEPA, rather than the local authority, is the enforcing authority for the purposes of the Part IIA regime. The description of Special Sites are set out in the Regulations and summarised in Section 1.1.2.

6.3.2 Serving a remediation notice

Where the Council is unable to secure voluntary remediation then remediation notices will be served on appropriate persons.

7 ARRANGEMENTS FOR CARRYING OUT DETAILED INSPECTIONS OF LAND

7.1 Detailed Inspections of Land

The application of this strategy may result in the identification of areas of land where pollutant linkages may exist. These areas will be subject to detailed inspection which may include any or all of the following:

- a) the collation and assessment of documentary information, or other information from other bodies;
- b) a visit to the particular area for the purposes of visual inspection and, possibly, limited sampling; or
- c) intrusive investigation of the land.

7.2 Inspections using Statutory Powers of Entry

Section 108 of the Environment Act grants powers of entry to authorised Council Officers to access land/premises for the purposes of inspection. However, these powers will only be used in circumstance where, on the basis of information already obtained, that there is a reasonable possibility that a pollutant linkage exists. In cases involving an intrusive investigation, the Council must be satisfied that the contaminant in the supposed pollution linkage is likely to be present and, given the current use of the land, that a receptor is actually present or is likely to be present.

Intrusive investigations using statutory powers of entry will not be carried out where sufficiently detailed information has been obtained to allow the determination of contaminated land, or a person offers to provide such information within a reasonable and specified time, and then provides such information within that time.

7.3 Procedure for Intrusive Investigations

Intrusive investigations will be carried out in accordance with appropriate technical guidance. All reasonable precautions will be taken to avoid water pollution or harm or damage to natural resources or features of historical or archaeological interest which might be caused as a result of the investigation. Before carrying out any intrusive investigation on a designated ecological site the Environmental Protection Officer or delegated person will consult with Scottish Natural Heritage on any action which would require their consent under section 28 of the Wildlife and Countryside Act 1981.

7.4 Health and safety procedures

Council employees involved in site inspections will comply with the requirements of Argyll and Bute Council Health and Safety policies and procedures. When sampling or intrusive investigations are to be carried out, these activities will be subject to a site-specific risk assessment.

Any third parties contracted to undertake investigative or remedial works on a potentially contaminated site will be required to confirm their compliance with all relevant Health and Safety legislation.

7.5 Appointment of consultants

Consultants may be required to undertake certain works on behalf of the Council in relation to its own land and privately owned land. All appointments of consultants will be conducted in accordance with established procedures.

7.6 Risk communication strategy

The presence of contaminated land is of interest to many sectors of the community, particularly those living in close proximity. It is important that interested parties understand the reasons for designating a piece of land as contaminated, and are given clear information about any attendant risks. Similarly, the decision whether to take remedial action or not, and the choice of remediation method, should be defensible and transparent.

The inspection for, and determination of, contaminated sites will be undertaken in the manner described in this Strategy, copies of which may be obtained by contacting the Environmental Protection Officer or by viewing the Council website. Sites determined as contaminated land will be placed on the public register. Parties concerned about the presence of contaminated land will be provided with clear, factual information, including the outcome of relevant risk assessments. Media inquiries will be dealt with via the Council's Communications Manager.

8 REVIEW MECHANISMS

8.1 Triggers for Inspection

Section 4.3 provides for the inspection of sites where investigations must be undertaken outside of the general framework described in Section 4, including:

- Introduction of new receptors, for example, where a new protected ecosystem is designated, or there is persistent trespass on a site which otherwise does not have a sensitive receptor
- Confirmation of localised health effects which appear to relate to a particular area of land
- Receipt of information from statutory bodies or other interested parties, which reveals that land requires to be inspected
- Change in use of surrounding land

The Environmental Health Manager (East) and Environmental Protection Officer will keep under review the impact upon the time-scales laid down for the prioritisation of other sites for inspection which may result from any unforeseen demand. Any resource implications or deviation from the strategy will be agreed with the Regulatory Services Manager.

8.2 Triggers for reviewing inspection decisions

Section 5.6 describes the procedures for prioritising sites for inspection and for carrying out site specific risk assessments. However, there may be occasions where the findings of inspection decisions should be reviewed. A review may take place where:

- There is a significant change in the legislation
- Significant case law or precedent has been established
- Guideline values for exposure assessment have been introduced or revised
- Instances of reported ill health or contamination

The results of the review will be recorded.

8.3 Reviewing the Strategy

The Strategy will be formally reviewed every five years and through the annual service planning process.

9 INFORMATION MANAGEMENT

9.1 General principles

Developing and implementing the strategy involves the accumulation of large volumes of information from a wide variety of different sources. This information, which may be in the form of bound documents, reports, letters, maps or electronic records, must be collated and managed efficiently.

For practical management purposes collected information will be sub-divided into “Public Register Information” and wider “Inspection Information”.

9.2 Information content

9.2.1 Public Register Information

Under the Regulations, Argyll and Bute Council is required to maintain a public register of contaminated land. The register will hold the following information:

- Identification notices
- Remediation notices
- Site specific guidance issued by SEPA under 78V of the Environmental Protection Act 1990
- Remediation declarations
- Remediation statements
- Notifications of claimed remediation
- Information where the authority is precluded from serving a remediation notice
- Designation of “special sites”
- Appeals against remediation notices
- Convictions

Certain information may be excluded from the public register on the grounds of national security or commercial sensitivity.

9.2.2 Other Inspection Information

‘Other Inspection Information’ refers to information gathered by Argyll and Bute Council during its inspection for, and determination of, contaminated land, which is not Public Register Information. This will include information relating to: the general characteristics of Argyll and Bute; present and former land uses; the presence of potentially harmful or polluting substances; the nature of potential pathways; the location and vulnerability of potential receptors; and, any other information which will assist in the inspection for, and determination of, contaminated land.

9.3 Administration

The information management system, including the Geographic Information System, supporting paper files and public register, will be maintained and managed by the Environmental Protection Officer

9.4 Use by other Local Authority departments

Information of a non-confidential nature will be made available to other departments through the Council's GIS. In particular, information relating to potentially contaminated sites will be accessible to the Planning Section.

9.5 Confidentiality of information

Where information is provided by third parties, its status will be confirmed at the time of provision by the third party, providing justification where they consider it to be commercially confidential or subject to national security considerations. All restricted information will be tagged as such on the contaminated land information management system. The identity of a person providing information may not be kept confidential if they were subsequently found to be an appropriate person, or the information supplied was to be used as material evidence in an appeal.

9.6 Arrangements for giving access to information

Public register information will be held within Environmental Health at Argyll and Bute Council Headquarters, Kilmory, Lochgilphead and may be made available at the Area Offices in Oban, Dunoon, Rothesay and Helensburgh by appointment. These will be available for inspection during normal working hours. Members of the public may obtain copies of register entries, subject to a copying charge as set down in the Department's schedule of fees and charges.

Inspection information not placed on the Public Register will be subject to the disclosure requirements of The Environmental Information (Scotland) Regulations 2004.

9.7 Dealing with requests for information

Responding to requests for information will be the responsibility of the Environmental Protection Officer, in accordance with the following:

- requests shall be dealt with in accordance with the Council's Customer Service Charter
- where the response to such request contains a refusal to make information available, the refusal shall be in writing and specify the reasons for the refusal.

A request for information may be refused where that request is manifestly unreasonable or is formulated in too general a manner.

9.8 Provision of information to SEPA

Argyll & Bute Council will furnish SEPA with information in accordance with legislative requirements and any existing LA/SEPA communication agreements. Specifically, the Council will provide SEPA with:

- notification of land identified as contaminated land.
- notification of land designated as a special site
- all relevant information which SEPA requires for the production of periodic contaminated land reports.

This is additional and complementary to the principles of consultation and communication detailed in sections 6 and 7.

9.9 Risk communication

The release of information relating to contaminated and potentially contaminated land will be subject to the general principles of risk communication outlined in section 7.6.

APPENDIX 1 LIST OF CONSULTEES

CONSULTEE	ADDRESS
Scottish Environment Protection Agency	Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire ML1 4WQ
Scottish Government	Environmental Protection Unit, Victoria Quay, Edinburgh, EH6 6QQ
Scottish Natural Heritage	1 Kilmory Industrial Estate, Lochgilphead PA31 8RR
Historic Environment Scotland	Longmore House, Salisbury Place, Edinburgh EH9 1SH
Food Standards Agency	4th floor, Pilgrim House, Aberdeen, AB11 5RL
NHS Highland	Assynt House, Beechwood Park Inverness IV2 3HG
Health Protection Scotland	Meridian Court, 5 Cadogan Street Glasgow G2 6QE
Loch Lomond & the Trossachs National Park	Carrochan, Carrochan Road, Balloch G83 8EG
Scottish Water	Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline KY11 8GG
West Dunbartonshire Council	Environmental Health Section, Aurora House, 3 Aurora Avenue, Queens Quay, Clydebank G81 1BF
Highland Council	Glenurquhart Road, Inverness, IV3 5NX
Stirling Council	Environmental Health, Regulatory Services, Endrick House, Kerse Road, Stirling FK7 7SZ
Perth & Kinross Council	Pullar House, 35 Kinnoull Street, PERTH, PH1 5GD

APPENDIX 2

GLOSSARY OF TERMS

Appropriate person	Any person found to bear responsibility for the remediation of contaminated land.
Contaminant	A substance which is in, on or under the land and which has the potential to cause harm, or to cause pollution of the water environment.
Contaminated land	Any land which appears to the local authority in whose area it is situated to be in such a condition that, by reason of substances in, on or under the land that: a) significant harm is being caused or there is a significant possibility of such harm being caused; or b) pollution of the water environment is being or is likely to be caused.
Ecosystem	A biological system of interacting organisms and their physical environment.
GIS	Geographic Information System. A computer based system for the storage, retrieval and manipulation of spatial data.
Hazard	The property of a particular substance, object or situation which has the ability to cause harm.
PAN	Planning Advice Note
Pathway	The route by which a receptor can be exposed to a contaminant.
Pollutant linkage	The relationship between a contaminant, a pathway and a receptor.
Public register	A record of particulars relating to contaminated land, maintained by the local authority, and available to the public.
Receptor	Human beings, protected ecosystems, property, or the water environment.
Remediation	Actions taken to prevent or minimise the adverse effects of contamination, including the assessment of the condition of land and subsequent monitoring.
Remediation notice	A notice specifying what an appropriate person is to do by way of remediation and the periods within which that person must do each of the things specified.
Risk	The probability, or frequency, of occurrence of a defined hazard and the magnitude of the consequences.
Risk assessment	A quantitative and/or qualitative methodology used to determine the level of risk associated with a particular site.
SEPA	Scottish Environment Protection Agency.
Special site	Designated contaminated land for which SEPA, rather than the local authority, is the enforcing authority. This occurs under any of the circumstances listed in section 1.2.2.
Water environment	Defined in Water Environment and Water Services(Scotland) Act 2003 including: a) inland waters (rivers, streams, canals, lakes and reservoirs) b) groundwaters (any water contained in underground strata, wells or boreholes) c) wetlands d) territorial waters e) coastal waters

APPENDIX 3 CATEGORIES OF SIGNIFICANT HARM

Type of Receptor	Description of Harm to that Type of Receptor that is to be regarded as Significant Harm
Human beings	<p>Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions.</p> <p>For these purposes, disease is to be taken to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only insofar as it is attributable to the effects of a pollutant on the body of the person concerned.</p> <p>In this Chapter, this description of significant harm is referred to as a “human health effect”.</p>
<p>Any ecological system, or living organism forming part of such a system, within a location which is:</p> <ul style="list-style-type: none"> • an area notified as an area of special scientific interest (commonly called a Site of Special Scientific Interest – SSSI) under Section 3 of the Nature Conservation (Scotland) Act 2004; • any land declared a national nature reserve under section 35 of Wildlife and Countryside Act 1981; • any area designated as a marine nature reserve under section 36 of that Act; • an Area of Special Protection for birds, established under section 3 of that Act; • any European Site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994 (ie Special Areas of Conservation and Special Protection Areas); 	<p>For any protected location:</p> <ul style="list-style-type: none"> • harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or • harm which affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location. <p>In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible that location or species typically found there.</p> <p>In determining what constitutes such harm, the local authority should have regard to the advice of Scottish Natural Heritage and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994.</p> <p>In this Chapter, this description of significant harm is referred to as an “ecological system effect”.</p>

<ul style="list-style-type: none"> • any candidate Special Areas of Conservation (see Scottish Office Circular 6/1995) or potential Special Protection Areas given equivalent protection; • any habitat or site afforded policy protection (ie candidate Special Areas of Conservation, potential Special Protection Areas and listed Ramsar sites); • any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949; or • any National Park designated under the National Parks (Scotland) Act 2000. 	
<p>Property in the form of:</p> <ul style="list-style-type: none"> • crops, including timber; • produce grown domestically, or on allotments, for consumption; • livestock; • other owned or domesticated animals; • wild animals which are the subject of shooting or fishing rights. 	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p> <p>The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>In this Chapter, this description of significant harm is referred to as an “animal or crop effect”.</p>
<p>Property in the form of buildings.</p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation.</p>

<p>For this purpose, “building” means “any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building”.</p>	<p>For this purpose, the local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended. Additionally, in the case of a scheduled Ancient Monument, substantial damage should be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.</p> <p>In this Chapter, this description of significant harm is referred to as a “building effect”</p>
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APPENDIX 4 Significant Possibility of Significant Harm

Descriptions of Significant Harm (as Defined in Table A)	Conditions for there Being a Significant Possibility of Significant Harm
<p>Human health effects arising from</p> <ul style="list-style-type: none"> the intake of a contaminant, or other direct bodily contact with a contaminant (exposure). 	<p>If the amount of the pollutant in the pollutant linkage in question:</p> <ul style="list-style-type: none"> which a human receptor in that linkage might take in, or to which such a human might otherwise be exposed, as a result of the pathway in that linkage, would represent an unacceptable intake or exposure, assessed on the basis of relevant information on the toxicological properties of that pollutant. <p>Such an assessment should take into account:</p> <ul style="list-style-type: none"> the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question; the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substance or substances; and the duration of intake or exposure resulting from the pollutant linkage in question. The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure. <p>Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine disrupting and other similar properties.</p>
<p>All other human health effects (particularly by way of explosion or fire).</p>	<p>If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning:</p> <ul style="list-style-type: none"> that type of pollutant linkage, or that type of significant harm arising from other causes. <p>Such an assessment should take into account the levels of risk which have been judged unacceptable in other similar contexts.</p>

All ecological system effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
All animal and crop effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.
All building effects.	If significant harm of that description is more likely than not to result from the pollutant linkage in question during the expected economic life of the building (or, in the case of a scheduled Ancient Monument, the foreseeable future), taking into account relevant information for that type of pollutant linkage.