

Report to: Environmental & Consumer Protection Committee
Report on: Staffing Resource for Implementation of Contaminated Land Regime
Report by: Director of Environmental & Consumer Protection
Report No. 374/2000

1. Purpose of Report

1.1 To inform the Committee of the resource implications of carrying out the statutory duties required under the new Contaminated Land Regime, and make recommendations for implementation of the initial stages of this new regime.

2. Recommendations

2.1 It is recommended that the Committee approve the following measures which will ensure that the provisions of Part IIA of the Environmental Protection Act 1990 are implemented effectively:

2.1.1 The creation of a Scientific Officer post, grade PO 1-4, £22,083 – 24,009, within the Environmental and Consumer Protection Department, for an initial period of two years. This appointment will be reviewed after that period and a decision made on the retention, or otherwise, of the post.

2.1.2 The setting up of a Contaminated Land Working Group which will be chaired by the above officer and have representatives from other appropriate departments. Representatives will be required from Environmental and Consumer Protection, Planning and Transportation, Economic Development, Support Services, Finance and other departments.

2.1.3 That this group will be given the remit:

- To prepare and publish, within the given legislative timeframe, a written strategy detailing how the Council intends to identify the incidence of contaminated land in the Dundee area.
- To set up the necessary information and data management systems for the preparation and implementation of the regime.
- To set up the necessary practical working arrangements, systems and procedures for the internal management and implementation of the regime.
- To establish clear links with the other agencies and, where necessary, consultants that will be involved in the implementation of the provisions of the regime.

2.1.4 That the financial and human resources required for the effective implementation of this new regime are kept under constant review.

3. **Financial Implications**

3.1 The Government has acknowledged that there will be considerable cost implications for local authorities and in turn have decided that it would not be prudent to commence these new statutory duties without making appropriate financial provision. Funding for Scottish local authorities now includes a total of £5.7 million increase in the GAE allocation over the initial three years to cover the revenue costs of site identification and preliminary investigation work.

3.2 The main areas of expenditure are expected to be in carrying out the initial assessment, preparing the report and the production of the actual strategy. This will include:

- The employment of a suitably qualified person (Environmental Science or Environmental Technology graduate)
- Training staff
- Purchase of documentation and equipment
- The preparation and publication of inspection strategy
- Intrusive investigation of sites.

3.3 A sum of £30,000 was included in the Environmental and Consumer Protection Department's 1999/2000 Revenue Budget and £54,000 has been included in the department's 2000/01 Revenue Budget. Subject to continued funding, it is anticipated that £54,000 will be included in the 2001/02 Revenue Budget.

3.4 It is proposed, subject to this committee's approval, that the new post of Scientific Officer be financed from the above allocation. The cost of this post in the current financial year is £15,211, and £26,075 in a full financial year. This officer would act as the Lead Officer for contaminated land within the Council. The remainder of the funding will be used to cover the cost of implementing the initial stages of this new statutory burden.

3.5 At this stage, the resource required in Dundee to meet the inspection and remediation tasks allocated and the financial aspects of this new regime cannot be fully quantified. Only through the development and publication of the Council's inspection strategy will we be in a position to fully determine the ongoing financial costs involved in implementing this new regime. These costs would be kept under constant review.

4. **Local Agenda 21 Implications**

4.1 The objectives of the new Contaminated Land Regime should serve to enhance the aims of Dundee 21

4.2 The key themes that will be directly addressed by the Contaminated Land Regime are:

- Pollution is limited to levels at which natural systems can cope
- The diversity of nature is valued and protected

- Health is protected by creating safe, clean, pleasant environments and health services which emphasise prevention of illness as well as care for the sick.

5. **Equal Opportunities Implications**

5.1 Acceptance of this report will maintain the Council's equal opportunity policy.

6. **Report**

6.1 Background to New Regime

6.1.1 The new contaminated land regime is due to be implemented in Scotland later this summer under Part IIA of the Environmental Protection Act, 1990 (and Section 57 of the Environment Act 1995). The primary role of the new regime is to provide a formal mechanism for the identification and subsequent remediation of land where contamination is causing unacceptable risks to human health or the wider environment.

6.1.2 The legislation places a duty on local authorities to identify contaminated land within their areas and initiate remediation actions. The Scottish Environment Protection Agency has a responsibility for the implementation of remedial measures in certain types of sites as defined under specific land use within the legislation.

6.1.3 The legislation seeks to encourage voluntary remediation by the appropriate person through a "suitable for use approach", which ensures that land is suitable **for its current use**. Land contamination where a change of use is concerned **is still dealt under the planning system**. Other regimes, such as Pollution Prevention and Control (PPC) are concerned with the prevention of new contamination.

6.1.4 Under the new statutory regime, contaminated land is identified as any land which appears to the local authority, by reason of substance, in or under the land that:

- Significant harm is being caused or there is significant possibility of such harm being caused (e.g. to humans, buildings, and ecosystems).
- Pollution of controlled waters is being or is likely to be caused.

6.1.5 The new Contaminated Land Regime was the subject of report 6/2000 in which a fuller description of the process can be found. A summary of the process can also be found in Appendix 1 of this report.

6.2 Legal Requirement of the Initial Stages

6.2.1 In order to meet their initial obligations, each local authority in Scotland has a duty to develop, adopt, and publish a formal written strategy for the inspection of its area. Setting out a rational, ordered and efficient approach to identify potentially contaminated land and determine whether the land is "contaminated" as defined in the legislation.

6.2.2 Local Authorities are required to have produced and published their written strategy within **fifteen months** of the issuing of the statutory guidance. The statutory guidance on which consultation has already been made was issued

for further consultation in December 1999. The guidance is now in its final draft and is expected to be laid before the Scottish Parliament for approval shortly, and come into force in July 2000. Therefore, the current expected deadline for the completion of the written strategies is October 2001.

6.2.3 The legal requirement to prepare and publish inspection strategies provides local authorities with an opportunity to consider, and then document, how the underlying policy and legal objectives of Part IIA are to be met given specific local conditions. It also allows the authority to consider how to prepare and deliver the inspection strategy through the co-operative efforts of various departments, and anticipate the practical working arrangements with external organisations that will have to be in place to implement the legislation.

6.3 Management of Strategy Production

6.3.1 The responsibility for the preparation of the inspection strategy is not assigned within the primary legislation or statutory guidance to any particular department of the local authority as it was recognised that the skill base required to carry out this new function would span a number of disciplines and department.

6.3.2 Identifying potentially contaminated sites will require the efforts of individuals with the necessary training and understanding of a wide range of associated subject areas such as geology, hydrology, hydrogeology, land remediation, environmental and company law, litigation and computer skills.

6.3.3 The first stage in the process therefore, involves the identification of the departments or individuals that have the necessary skills that will assist the development of the inspection strategy.

6.3.4 This report seeks committee approval to set up a Contaminated Land Working Group comprised of officers with the relevant knowledge and skills to carry out the task. It is suggested that officers are identified from the Environmental and Consumer Protection Department, Planning and Transportation Department, Support Services Department, Finance Department and Economic Development Department and officers from other departments as required.

6.3.5 The Scientific Officer will act as the chair of the group. In the transitional period prior to that appointment, it is proposed that another officer from the Environmental and Consumer Protection Department chairs the group.

6.3.6 In order to deliver the strategy document within the defined timescale, and in an orderly fashion, the roles and responsibilities of those involved in the project should be defined at the outset, in areas such as:

- Detailed Inspection
- Data Management
- Remediation
- Legal Advice and Enforcement Action
- Enquiries
- Liaison with External Organisations

6.3.7 The Local Authority may have to consider the use of consultants in areas where we do not have the necessary expertise in-house.

6.3.8 In identifying responsibility it should be borne in mind that much of the information required, and resulting from inspection is pertinent to other local authority functions such as land use planning, development control,

environment protection and economic development. It should therefore be explored in order to establish if there might be tangible benefits in ensuring that Part IIA roles and responsibilities are formally linked or integrated with other local authority activities.

6.4 External Liaison

6.4.1 Liaison with a number of other external organisations and individuals will be a key aspect of the practical implementation of the provisions. The authority will have to establish defined links with these organisations to ensure efficient consultation, transfer of information and, where relevant, to ensure the transfer of regulatory control.

6.5 Guidance and Training

6.5.1 In addition to the primary legislation, regulations and statutory guidance, specific guidance is being developed on the preparation of the inspection strategy, risk assessment approach and prioritisation of contaminated sites.

6.5.2 CoSLA has set up four task groups looking at strategy development, remediation registers, training and technical issues. The output of these groups will be circulated to all local authorities.

6.5.3 The need for a comprehensive training programme for local authority staff has been highlighted with the Scottish Executive and CoSLA. The CoSLA Training Task Group is assessing the current skill base within local authorities and hope to develop an interactive training programme in parallel with the introduction of the new regime.

7. **Conclusion**

7.1 It is clear that the Government is committed to the new Contaminated Land Regime which has been designed to address the substantial legacy of land which is already contaminated from past activities. Through the production of the strategy, we will be able to identify the number of sites that will require to be considered under this new regime. In this way, we will be better placed to assess the resources required for its implementation.

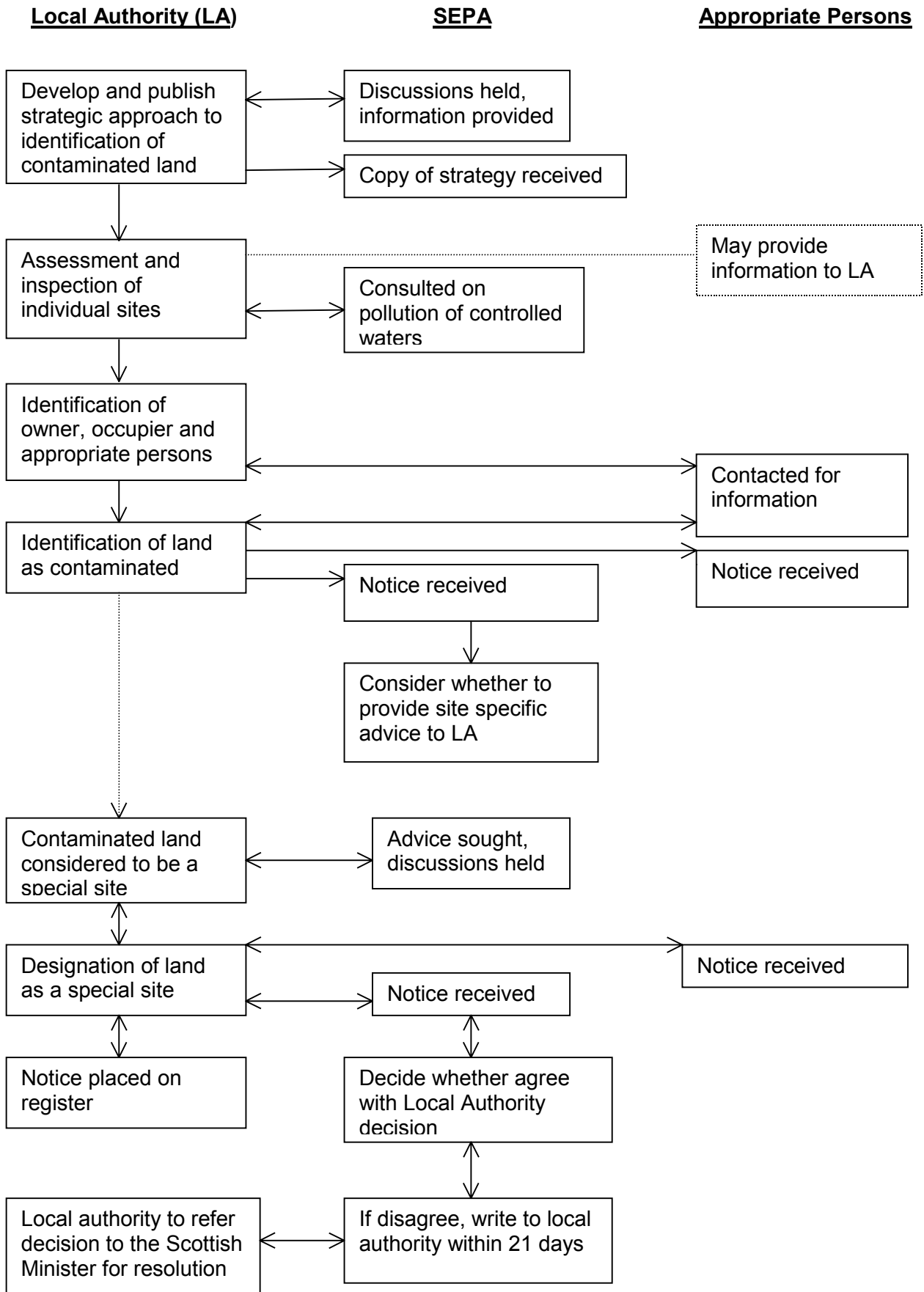
7.2 Finally it should be recognised that the successful development of the inspection strategy is a crucial part of the process as it will be from this that most other action and outcomes of the regime will flow.

8. **Consultation**

8.1 Chief Executive
Director of Finance
Director of Support Services
Director of Planning and Transportation
Director of Economic Development
Director of Personnel and Management Services

Signed ----- Date-----
Director of Environmental & Consumer Protection

FLOWCHART A: IDENTIFICATION OF CONTAMINATED LAND



FLOWCHART B: REMEDIATION OF CONTAMINATED LAND

