

## INFORMATION FOR PURCHASERS OR OWNERS OF POTENTIALLY CONTAMINATED LAND

### Has the Property been identified as Potentially Contaminated?

The following information is provided to assist you if you either suspect or have been informed that a property is potentially contaminated or affected by pollution.

### What is Contaminated Land?

Contaminated land is defined in Part IIA of the Environmental Protection Act 1990 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 a significant possibility of such harm being caused; or
- (b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused;”

The term 'harm' may be used to describe damage to any of the following:

- Human beings
- Ecological systems and living organisms within protected sites or reserves
- Property in the form of crops, produce, livestock, owned or domesticated animals and wild animals which are subject to shooting or fishing rights
- Property in the form of buildings, including ancient monuments

Land with a history of industrial activity may be contaminated with substances which, if not properly dealt with, could pose a risk to public health or the environment. Other potential sources of contamination could include infilled pits or natural cavities, landfill sites, pollution spillage, mining and in some cases, natural circumstances.

### How can I find out if the site is Potentially Contaminated?

There are many services in respect of assessments of sites for contamination, it should be noted that issues arising from these searches may not necessarily have an effect on the value of a property.

The Environment Agency's on-line “Property Search” service for prospective home-buyers is designed to be “for anyone involved in house purchase.” Details can be found on: [www.environment-agency.gov.uk/maps](http://www.environment-agency.gov.uk/maps) and following the link to Environment Agency Property Search.

The search can be requested directly from the Environment Agency website or by contacting the National Customer Contact Centre (NCCC) on 08708 506506, who will post or email the report directly to you. The cost of the report is £47 (August 2005).

A free data search service: [www.homecheck.co.uk](http://www.homecheck.co.uk) will outline possible contaminative uses and other aspects such as flooding risk and radon. This is provided on the basis of a search of assessment data held on databases. Some of this information may have limitations, for example in respect of location and relevance to the property. The result will be to postcode level only and is not specific to the property. It is provided for general interest purposes only. Within the post code area there could be important differences that will not be picked up by this site. In many cases the above search will not be rigorous enough to cover all of the potential problems.

More detailed reports can be obtained from [www.landmarkinfo.co.uk/corp/products.jsp](http://www.landmarkinfo.co.uk/corp/products.jsp), these cost £34.08 or £45.83 including VAT (August 2005). These contains more information and can be useful in finding issues that should be followed up in the conveyancing process but may also identify potential issues that may need to be assessed using appropriate professional advice.

Several other “levels” and types of database searches are available with varying amounts of data from the above supplier and others (eg. [www.groundsure.com](http://www.groundsure.com) Homebuyers Review which costs £34.99 including VAT, August 2005), some of these are intended for professionals. Many Local Authorities also provide a similar search that they may charge for. A Local Authority search has advantages & disadvantages, the principal advantage being that ultimately it's only their list of potentially contaminated sites that may matter legally and in respect of planning issues. If a problem is identified which may lead to the site being classified as contaminated it is advised that further help should be sought. Having taken the appropriate advice, if the services of a consultant are sought, further studies are likely to cost several hundreds of pounds. It should be noted that standard conveyancing surveys (even the R.I.C.S. House Buyer's Report) may not comprehensively cover contaminative issues.

### Information for Conveyancing

The Law Society (<http://www.lawsoc.org.uk/>) has produced a “Contaminated Land Warning Card” giving advice to solicitors in respect of the implications of Part IIA of the Environmental Protection Act 1990. Solicitors should be aware of the environmental liabilities that may arise and can advise their client on what further enquiries and specialist assistance to obtain.

Information about individual mortgage lender's requirements can be found in the “CML Lenders' Handbook for Conveyancers” on the Council of Mortgage Lenders website [www.cml.org.uk](http://www.cml.org.uk) . In general, lenders only require environmental reports if the local authority searches indicate the site is potentially contaminated, or if the surveyor highlights the need for further investigation.

There are a number of warrantee and insurance schemes for new houses which may include cover in respect of contamination. For example, the policy currently provided by the NHBC where it is undertaking the Building Control function, provides cover against the cost of cleaning up contamination of the land if a home owner is served with a statutory remediation ('clean-up') notice.

### Your Local Council

Your local council has a duty to identify contaminated land in its area and has powers to facilitate (i.e. require) its remediation when found. They also maintain records relating to contaminated land in their area which you may wish to inspect. Most will also offer advice to homeowners or developers concerned about potential contamination.

If you are considering development you may need more specific advice to comply with planning and building control requirements. Most local authorities provide guidance notes for developers of potentially contaminated land and these can usually be found on their website.

The Government has recently updated Planning Guidance relating to contaminated land and the guidance may be obtained from the Office of the Deputy Prime Minister's website: [www.odpm.gov.uk/stellent/groups/odpm\\_planning/documents/downloadable/odpm\\_plan\\_032637.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/downloadable/odpm_plan_032637.pdf). Further information and references can also be found at [www.contaminated-land.org](http://www.contaminated-land.org) and [www.contamlinks.co.uk](http://www.contamlinks.co.uk).

### Obtaining Professional Advice

Buyers are advised to seek advice from their solicitor about the reliance that can be placed on reports. It may be that the more comprehensive the report (and probably more expensive) the more useful it will be and the more it can be relied upon if anything goes wrong. The insurance held by the parties providing the reports may also be an important issue to be considered.

Many of the AGS (Association of Geotechnical and Geoenvironmental Specialists) Member organisations can provide specialist services and advice on potentially contaminated sites. We suggest you search our directory [www.ags.org.uk](http://www.ags.org.uk) under “Environmental Consultant”. You may wish to choose a local consultant with knowledge of your area or a national organisation with the resources to deal with large sites and more complex problems. Alternatively your local council may be able to identify firms of consultants who have done similar work in the past.

*The information provided here is of a general nature and refers to the circumstances at the date of preparation. It is recommended that advice be sought from solicitors and other professionals as appropriate in particular circumstances. The Association of Geotechnical and Geoenvironmental Specialists have made every effort to ensure the accuracy and quality of the information and guidance contained in this document. However, the AGS can take no responsibility for the subsequent use of this information, nor for any errors or omissions it may contain.*

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