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26 June 2015

Dear Sir/Madam

**REGULATORY AND LICENSING COMMITTEE**

A special meeting of the above mentioned Committee has been arranged to take place on **MONDAY 6<sup>th</sup> JULY 2015** at **6.00 p.m.** in the **COMMITTEE ROOM**, District Council House, Lichfield to consider the following business.

Yours faithfully



Strategic Director

To: **Members of Regulatory and Licensing Committee:**

Councillors Yeates (Chairman), Salter (Vice Chairman), Mrs Baker-Thomas, Mrs Constable, Drinkwater, Mrs Eagland, Mrs Evans, Leytham, O'Hagan, Powell, Miss Shephard, Smedley, Mrs Stanhope MBE, A. Yeates and Warfield.



## AGENDA

1. Apologies for absence
2. Declarations of Interest
3. To approve as a correct record the Minutes of the special Meeting held on the 4<sup>th</sup> March 2015 (Copy attached)
4. Taxi Licensing (Child Sexual Exploitation, Review of Conditions, ranks update) (Copy attached)
5. Contaminated Land (Copy attached)
6. Work Programme (Copy attached)

### Briefing Papers

Members have asked that we seriously address the use of agendas – both the length and the volume. One of the ways is to provide certain items in a format. The suggestion is that we will from time to time provide briefing papers for members on issues on which Members need to be informed. This is an alternative to placing items on the agenda, enabling us to focus the meetings on the business in hand.

If Members wish the paper to be discussed it can then be scheduled for a future meeting or individual briefings arranged however, Members must give specific reasons for their request.

#### List of Briefing Papers Issued Separately

None

# REGULATORY AND LICENSING COMMITTEE

4 MARCH 2015  
(4.00pm)

**PRESENT:** Councillors Derrick (Chairman), Yeates (Vice-Chairman), Mrs Constable, Constable, Drinkwater, Mrs Eagland, Salter, Mrs. Stanhope MBE, Walker MBE and Warfield

**(APOLOGIES FOR ABSENCE** were received from Councillors Mrs Barnett, Mrs Bacon, Powell, Smedley and Taylor)

Councillor Willis-Croft also attended the meeting in his capacity of Ward Member for Chasetown.

## 222 DECLARATIONS OF INTEREST

No Declarations of Interest were made.

## 223 CONSIDERATION OF PUBLIC FOOTPATHS AT MILESTONE WAY, BURNTWOOD – FOOTPATHS NO. 15 AND NO. 0.333 IN THE PARISH OF BURNTWOOD

Consideration was given to an application received from Taylor Wimpey West Midlands for the temporary diversion of public footpaths No.15 and No. 0.333 in the Parish of Burntwood to enable the proposed development at Milestone Way, Burntwood to take place should the Planning Application be approved. It was noted that following the Committee's decision in November 2014, the developer now wished for the diversion of Footpath No. 0.333 to be permanent. It was also reported that the route of Footpath No. 15 would no longer require to be diverted.

It was reported that there had been a site visit involving the Developer, a Staffordshire County Council Officer, Lichfield District Council Officer, Ward Members, Chairman of Burntwood Town Council Planning Committee, Ramblers Association, Open Spaces Society, and Peak and Northern Footpath Society. It was noted that this meeting all parties were in agreement with the new proposals.

**RESOLVED:** (1) That following the granting of Planning Permission, a Permanent Public Footpath Diversion Order be made under the Town and Country Planning Act 1990 to be known as The Lichfield District Council (Footpath No. 0.333 in the Parish of Burntwood) Public Footpaths Diversion Order 2015;

(2) That the agreed diversion of Footpath No. 15 in the Parish of Burntwood no longer be required; and

(3) That the Strategic Director – Democratic, Development and Legal Services be authorised to take all necessary action.

(The meeting closed at 4.20 pm)

CHAIRMAN

# SUBMISSION TO REGULATORY AND LICENSING COMMITTEE

Date: 6<sup>th</sup> July 2015

Agenda Item:4

Contact Officer: Neil Wait / Gareth Davies

Tel: 01543 308734 / 308741

## SUBMISSION BY NEIL WAIT – SENIOR ENVIRONMENTAL PROTECTION OFFICER

### Taxi Licensing (Child Sexual Exploitation, Legal Update, Review of Conditions & Taxi Ranks update)

#### 1. Purpose of Report

- 1.1 To advise members of completed Child Sexual Exploitation (CSE) awareness taxi licensing actions.
- 1.2 For members to decide upon a range of possible new CSE taxi licensing requirements.
- 1.3 To provide members with a taxi licensing legal update, and members to decide upon subsequent new licensing requirements.
- 1.4 For members to review taxi licensing conditions, and consider a specific request from a licensed driver.
- 1.5 To provide members with a taxi rank update.

#### 2. Child Sexual Exploitation

- 2.1 At the Regulatory and Licensing Committee meeting on the 4<sup>th</sup> February 2015, Members received a report outlining the authorities approach to Child Sexual Exploitation (CSE). This report identified subsequent taxi licensing actions regarding CSE.
- 2.2 18 March 2015 was a national CSE awareness day. Officers conducted a joint day of action with the Police visiting taxi operators and speaking to drivers operating in the district. A taxi driver CSE fact sheet was handed out (**Appendix A**) along with an invitation to attend a taxi driver CSE awareness and consultation event. The information sheets and invite was also mailed to all licensed drivers and operators.
- 2.3 The CSE awareness and consultation event took place on 14<sup>th</sup> April 2015, at the Council Offices. Six drivers attended. The Council's lead safeguarding officer gave a CSE awareness presentation then licensing officers highlighted taxi driver related CSE matters. The approach taken was that our licensed drivers have a positive role to play being the Council's eyes and ears as they operate throughout our district.
- 2.4 The consultation event comprised of officers presenting a range of possible new taxi licensing requirements regarding CSE. The options were derived from Members comments from the

Regulatory and Licensing Committee meeting on the 4<sup>th</sup> February 2015, Officers and discussion with other Midland local authorities.

2.5 The feedback from the drivers was positive. The table below summarises the proposals and comments received.

Proposal	Support	How implement / comments
Introduce CSE safeguarding booklet for all taxi drivers	Yes	Issue as part of license application / renewal pack
Add CSE questions to new driver test	Yes	Add to existing test. Multiple choice style questions
Driver to have 'CSE report it' cards	Yes	Include upon of issue / renewal of license.
CSE sticker / awareness notice in vehicle	Yes	If implemented would have to be condition to ensure consistency
Drivers to attend CSE training event	No	Booklet and test sufficient
Second (larger) driver badge displayed on vehicle dash board	No	Could hang exiting badge off rear view mirror so all passengers could see it

2.6 Officers considered the consultation feedback before recommending options for the Committee to consider. Officer's comments:

- The drivers comment that their existing driver badge could be hung from the rear view mirror has been discarded as the legislation specifically states the driver badge must be worn by the driver at all times, and it is an offence not to (*Section 54 of the Local Government (Miscellaneous Provisions) Act 1976*).
- Therefore a second larger drivers badge is an option and this would negate the need for an awareness sticker. It would incur a small materials cost (estimated £10) which would be passed onto the drivers via amended application / renewal fees. Officers have consulted with the Staffordshire Road Safety Partnership and a dash board mounted badge would be deemed suitable subject to *it not being within the line of vision*. Should this option go forward officers would draft a suitable license condition requiring drivers to mount the badge on the dash board in line with this safety requirement.
- All drivers attending a CSE course would add significant cost to the application process plus a logistical issue of sourcing and administering such a course.
- Implementing safeguarding booklet and additional test questions options are low administration and cost options.

- 'Report it' card examples exist across the County. The question is whether requiring it as a possible condition is reasonable as drivers can simply refer any concerns to LDC or the Police in the manner that suits them best.

2.7 Prior to considering the options, Members should be aware that the legislation states... a district council may attach to the grant of a license under this section such conditions as they may consider **reasonably necessary** (*Section 51(2) of the Local Government (Miscellaneous Provisions) Act 1976*).

### Recommendations

2.8 For Members to decide upon each additional CSE taxi licensing provision presented in the table below:-

Proposal	How to implement
1) Introduce CSE safeguarding booklet for all taxi drivers	Issue as part of license application / renewal pack
2) Add CSE questions to new driver test	Add to existing knowledge and safety test.
3) Driver to have 'CSE report it' card.	Required as a taxi driver license condition.
4) Drivers to attend CSE training event	Required as a taxi driver license condition.
5) Second (larger) driver badge displayed on vehicle dash board	Required as a taxi driver license condition.

2.9 Should any of the options be approved by the Committee, and those requirements require a change or addition of condition, Officers seek your approval to draft suitable conditions and then consult the proposed condition / changes with the taxi trade. Officers seek approval to authorise the Chairman of Regulatory and Licensing Committee and Environmental Health Manager to review any consultation comments and approve any changes.

2.10 Should any of the options be approved by the Committee, and those requirements require a change or addition to the fee structure, approve the incorporation of the costs in the 'Environmental Health 2016/17 Fees & Charges' report to Committee on 10 February 2016.

### 3. Legal Update

#### Deregulation Act 2015

- 3.1 The Deregulation Act was enacted on 26 March 2015. Sections 10 and 11 concerning taxi licensing come into force on 1 October 2015. Government guidance on the legislative changes is awaited.
- 3.2 Section 10 amends the Local Government (Miscellaneous Provisions) Act 1976 by standardising at three years the duration of both taxi and private hire driver licences; and at five years the licence for a private hire operator. A shorter duration may be specified depending on the circumstances of the case.
- 3.3 The Council currently offer drivers' a choice between 1 and 3 yearly licenses. Operators are currently renewed annually. Provisions for a 5 year operator license will be added to the 'Environmental Health 2016/17 Fees & Charges' report to Committee on 10 February 2016. Historically 5 year operator licenses were offered, however there was a nil take up by the trade. Our application / renewal administration will be revised according to these new provisions.
- 3.4 Section 11 inserts new sections 55A and 55B into the 1976 Act the effect of which is to allow private hire operators, based outside London, to sub-contract bookings to other operators based in different districts or in London or Scotland; and to make it an offence for such a private hire operator to sub-contract a booking knowing that the operator to whom it is subcontracted would operate a private hire vehicle where either the vehicle or the driver was not licensed under the 1976 Act.
- 3.5 Officers have concerns that from October 2015 operators will be able to sub-contract booking to other firms and there is no requirement to advise the customer. For public safety reasons officers believe customers should be told which taxi firm will be collecting them.

#### Recommendation

- 3.6 Members to consider adding an additional condition to the operator license as follows:

*3.2.3 If an operator sub-contracts a booking the operator shall verbally inform the customer prior to the vehicles arrival at the pick-up site the details of the sub-contractor that will be conducting the journey. Details shall include operator license name and licensing authority.*

## **Notifiable Occupation Scheme**

- 3.7 Home Office circular 006/2006 was updated on 25 March 2015. The scheme includes a list of occupations whereby if the Police gain relevant information upon a person in that occupation they have a duty to inform the relevant body. Taxi driver was a notifiable occupation but it has now been removed.
- 3.9 This does not impact upon the application and renewal process of conducting criminal record searches via the Disclosure and Baring Service. During these searches, the Police can still provide additional information to the Licensing Authority via common law disclose. Home office guidance will be published shortly. However, there is an increased risk that we will not find out about criminal acts during the lifespan of the license.

## **DVLA**

- 3.10 Since 8 June 2015, the paper counterpart to the photocard driving licence isn't valid and is no longer issued by DVLA. The counterpart was introduced to display driving licence details that could not be included on the photocard. These details include some vehicle categories you are entitled to drive and any endorsement/penalty points.
- 3.11 DVLA have introduced an online service for individuals to check their driving licenses. A system exists for organisations to check drivers using a code provided by the driver.

## **National Standards**

- 3.12 National standards for private hire vehicle and driver licensing looks increasingly likely as the Law Commission prepares to finalise its proposed changes to taxi licensing in the UK. Their report, when published, will then be considered by the Home Office before any proposed changes are announced / consulted upon.

## **Enforcement**

- 3.13 During the recent Committee Member training the issue of a point based taxi enforcement scheme was raised. Currently officers deal with enforcement matters on a case by case basis in line with our enforcement policy. Until the Home Office report on proposed national standards it is not known if there will be such a scheme implemented nationally. Officers will review this matter again once the national standards are published.
- 3.14 Officers have been in discussion with the Staffordshire Road Safety Partnership regarding taxi driver driving assessments. Officers are exploring options whereby new and / or existing drivers could be required to complete a driving assessment. It could also be used as an



enforcement outcome or appeal committee recommendation. There is a charge for the assessment that could be passed onto the driver with an amendment to the fees scheme. Currently new drivers have to complete a written test.

### **Recommendation**

- 3.15 Members to task officers to further investigate options of incorporating a taxi driver driving assessment into the licensing assessment. Officers will present options to a future Committee Meeting for decision.

## **4. Review of Conditions**

- 4.1 The current taxi license conditions are shown in **Appendix B**.
- 4.2 This committee completed a full review of these conditions in September 2011. Officers have reviewed the conditions again and believe they remain relevant.
- 4.3 In November 2012, this Committee was asked to consider a request received from a current license holder of a special events vehicle to be exempt from the license requirement (condition 7) to display license plates. On that occasion Members determined that there was insufficient grounds for allowing an exemption and that such vehicles should be readily identifiable for public safety reasons.
- 4.4 Officers have received a new request from a different licensed drive to make the same exemption (special events vehicle condition 7) as considered in 2012. **See Appendix C**.

### **Recommendation**

- 4.5 Members to determine the request to exempt display of the license plate as required by condition 7 of private hire vehicle – special events conditions.

## **5. Taxi Ranks update**

- 5.1 During its meeting on the 28<sup>th</sup> November 2013, Regulatory and Licensing Committee made recommendations to the Lichfield Parking Board for the creation of three new ranks and the adoption of a fourth in the Lichfield City Centre.
- 5.2 Subsequently the Lichfield Parking Board nominated these recommendations as one of their top priorities for implementation by Staffordshire County Council during the following year.
- 5.3 On the 18<sup>th</sup> March 2015, Staffordshire County Council (SCC) representatives met with the previous Chairman of Regulatory and Licensing Committee, Officers of the District Council and the Police to discuss problems they had found in implementing the recommendations and to identify alternatives.

- 5.4 SCC gave reasons why they couldn't create the proposed ranks in Sandford Street or Tamworth Street. They have been requested to seek special dispensation to overcome the preventative restrictions. A response on progress is awaited.
- 5.5 It was determined by SCC that the proposed rank in Market Street be extended to the full width of the Market Square as this would make the de-marking of the parking restrictions clearer for motorists. This would also give the added benefit of approximately two additional rank spaces.

## 6. Recommendations

- 6.1 For members to note the contents of the report.
- 6.2 For members to determine the recommendations set out in sections 2, 3 and 4 of the report.

## 7. Risk Management Issues

Risk	Likelihood/Impact	Risk Category	Countermeasure	Responsibility
Appeal of any license conditions made / amended	Low	Legal	Consider any consultation response and review if justified	Regulatory and Licensing Committee
Protect public safety	High	Citizen / Legal	Monitor and review	Regulatory and Licensing Committee

## 8. Appendices

**Appendix A** – Taxi driver CSE fact sheet

**Appendix B** – Existing taxi licensing conditions:

- hackney carriage vehicle
- private hire vehicle
- private hire vehicle – special events
- combined hackney carriage and private hire drivers
- operator's license

**Appendix C** – Drivers request to amend conditions for special events vehicles

## Child Sexual Exploitation (CSE) Fact Sheet

The NSPCC describe child sexual exploitation (CSE) as a type of sexual abuse in which children are sexually exploited for money, power or status.

- All children from all kinds of families can be sexually exploited.
- The majority of sexually exploited children and young people will be hidden from view and it is difficult to quantify the number of children and young people who are abused in this way
- In 2014 Barnado's worked with 1,940 children and young people who had been sexually exploited and 43 children were identified as at risk in Staffordshire in December 2014, the numbers believed to have been subjected to sexual exploitation in Rotherham were at least 1,400 children and young people
- The average age for exploitation is getting younger from 15 to 13 years of age. Barnado's has worked with children as young as 10
- A child under the age of 13 is not legally capable of consenting to sexual activity
- Sexually exploited children over the age of 16 can consent to sex but they cannot consent to exploitation, all children under 18 should be safeguarded
- Child Sexual Exploitation does not just take place in large towns and cities. It can happen anywhere
- Public areas such as parks and leisure centres are often used but perpetrators target victims
- Children from families where there may be problems can be targeted by perpetrators who identify a child's vulnerabilities and exploit them
- The majority of victims are not 'looked after' children, it is estimated that only 20-25% of victims are 'looked after'
- Because of the grooming methods used by their abusers, it is very common for children and young people who are sexually exploited not to recognise that they are being abused
- The age profiles for child sexual exploitation offenders are often within the 18-24 age group
- Girls and women can be both the groomers and the offenders
- White Caucasians are just as likely to be the offenders as other racial groups
- Individuals offend as well as groups of men
- Boys are often victims of sexual exploitation but they may find it harder to disclose that they are being abused by other men because of issues about sexual identity
- Boys and young men who are sexually exploited are more than twice as likely to have a recorded disability such as a learning disability, behaviourally based disability or an autism spectrum disorder than girls
- Children and young people can be trafficked from one street to another and within regions
- **Child Sexual Exploitation has a devastating long term impact for the victim and on the whole family**

## **Useful Contacts**

If you are worried that a child or young person may be at risk of Child Sexual Exploitation you can call First Response (Staffordshire County Council) on 0800 131 3126

You can also call Mark Bestwick (The CSE Single Point of Contact for the Police) on xxxx or email [Mark.Bestwick@staffordshire.pnn.police.uk](mailto:Mark.Bestwick@staffordshire.pnn.police.uk). You can email Staffordshire Police Central Referrals Unit on 101 and ask for the MASH (Multi-Agency Safeguarding Hub) or email [mash@staffordshire.pnn.police.uk](mailto:mash@staffordshire.pnn.police.uk)

You should share your concerns with Susan Bamford (the Designated Lead Officer) Tel 01543 308170 or Clive Gibbins (Deputy Safeguarding Lead Officer) Tel 01543 308702 and they can make a referral on your behalf

**If you believe a child or young person is in immediate danger or requiring medical attention ring 999**

## **Useful websites**

SSCB [www.staffsscb.org.uk](http://www.staffsscb.org.uk)

NSCC - - [www.nspcc.org.uk](http://www.nspcc.org.uk)

Barnado's – [www.barnados.org.uk](http://www.barnados.org.uk)

Child Exploitation Online Protection – [www.ceop.police.uk](http://www.ceop.police.uk)

Parents against Child Sexual Exploitation – [www.paceuk.info](http://www.paceuk.info)

National working group – [www.newgnetwork.org](http://www.newgnetwork.org)

## HACKNEY CARRIAGE VEHICLE

### Conditions of Licence

#### Introduction

The Hackney Carriage Vehicle Licence is granted subject to complying with the following conditions of licence.

The 'Licence Holder' is the proprietor of the vehicle.

All references to the "Council" in these conditions mean Lichfield District Council, District Council House, Frog Lane, Lichfield, Staffs, WS13 6YX.

#### General Conditions

##### 1.0. Licence Document

- 1.1. Licences for a Hackney Carriage Vehicle will run for a maximum period of twelve months.
- 1.2. If your Hackney Carriage Vehicle licence expires you must return the vehicle licence and identification plate to the Council within 7 days.
- 1.3. The licence plate shall not be transferred to another vehicle without the consent of the Council.
- 1.4. The licence holder must notify the Council of any changes:-
  - 1.4.1 in the particulars disclosed on any application forms;
  - 1.4.2 in respect of any forms or documents submitted in order to make an application for a Hackney Carriage Vehicle Licence.

##### 2.0. Deposit of Driver's Licence

- 2.1. If the licence holder permits or employs any other person to drive the vehicle as a Hackney Carriage they shall, before that person commences to drive the vehicle, ensure that the driver has a valid Combined Drivers Licence and the vehicle owner shall retain a photocopy of that Drivers Licence, until such time as the driver ceases to be permitted or employed to drive the vehicle.

##### 3.0. Change of Address

- 3.1. If you change your address at any time during the period of the licence, you must inform the Council in writing within 7 days.

##### 4.0. Single Authority Licensing of Vehicle

- 4.1. This licence is issued on the condition that the hackney carriage to which it relates is not licensed as either a hackney carriage or private hire vehicle by another authority. If Lichfield District Council becomes aware of other vehicle licenses (hackney carriage or private hire) running concurrently with this licence, then this licence will be revoked.

## **5.0. Vehicle Insurance**

- 5.1. The licence holder shall produce all vehicle insurance documents on demand to the Council at any time during the period of the licence.
- 5.2. The licence holder shall ensure that a full certificate or cover note of insurance is produced to the Council within 7 days of expiry, upon request or any earlier renewal.

## **6.0. Vehicle Road Fund Licence**

- 6.1. The licence holder shall produce a current vehicle road fund licence on demand to the Council at any time during the period of the licence.

## **7.0. Ministry of Transport Test Certificate**

- 7.1. The licence holder is required to produce on demand to an officer of the Council or a Police officer, an annual Ministry Of Transport Test Certificate after 12 months from the date of registration.

## **8.0. Inspection**

- 8.1. The Council may require in writing for the licence holder to produce their vehicle for inspection at a Lichfield District Council designated Test Station up to three times annually at the cost of the licence holder. Inspections carried out on an unannounced basis will not be included within the above figure.

## **9.0. Accidents**

- 9.1. Any accident or damage involving the licensed vehicle must be reported to an officer in the Environmental Health Department at the Council. This may be an oral report in the first instance but must be followed up by the completion of an Accident Report Form within 120 hours of the accident.

## **10.0. Alteration of Vehicles**

- 10.1. No material alterations or change in specification, design, condition or appearance of the hackney carriage shall be made, at any time while the licence is in force without the prior approval of the Council.

## **11.0. Vehicle Type**

- 11.1. The seating arrangement in 'Minibus' and 'Multi Purpose Vehicle' types will be fixed and approved by the Council. The seating will not be moved once the approval has been granted.
- 11.2. All saloon / estate type vehicles must have a minimum of 4 doors excluding rear doors/tailgate/boot.
- 11.3. Vehicles capable of carrying more than 4 passengers e.g. people carriers/minibuses and similar type, must have a minimum of 3 doors excluding the rear doors/tailgate/ boot. The third door must be located on the near side of the vehicle to ensure safe access and egress of passengers. There must be sufficient space for luggage whilst still leaving gangways clear and there shall be a suitable restraint available to secure any luggage in the passenger compartment.
- 11.4. Any vehicle that in the opinion of the Council has received any modification, other than by a recognised vehicle manufacturer, shall at the discretion of the Council undergo an additional safety test at a testing centre selected by the Council.
- 11.5. The seating arrangement in 'People Carrier' type vehicles will be fixed and approved by the Council. Every seat should have direct access to an exit door, therefore no seat which needs to be tilted, moved or in any way adjusted to gain access to another row of seats will be allowed. The seating will not be moved once the approval has been granted.

## **12.0. Comfort of Passengers**

- 12.1. Seating must have adequate dimensions and leg room in the opinion of the licensing officer.

## **13.0. Colour**

- 13.1. Hackney Carriage Vehicles should be white, or any colour which appears to be white.
- 13.2. All Public Carriage Office approved (i.e. London Taxis) are exempt from any colour restriction.

## **14.0. Age Limit of Vehicles**

- 14.1. No Hackney Carriage Vehicles will be permitted to be more than 6 years old for saloon type vehicles and 10 years old for purpose-built taxis as defined on the vehicles V5 DVLA document, from the date of first registration (unless the vehicle is in an exceptional condition as determined by the Council).

## **15.0. Maintenance of Vehicle**

- 15.1. The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire, be kept in a good, clean and efficient working order.
- 15.2. The interior of the vehicle shall be kept clean and tidy at all times when in use as a Hackney Carriage vehicle. The exterior of the vehicle to be clean at all times, having due regard to the weather conditions on the day.
- 15.3. The vehicle shall also carry a suitable and sufficient method of tyre replacement or repair, which will allow the driver to complete the current journey. All methods of tyre replacement or repair must be used in accordance with the manufacturer's instructions.

## **16.0. Advertising and Official Signs**

- 16.1. All Hackney Carriage Vehicles must display Hackney Carriage Identification signs as supplied by the Council and shall ensure each is permanently affixed to both of the rear passenger doors of the vehicle aligned horizontally with the rear door handles and shall remain on display at all times.
- 16.2. These signs shall not be removed from the vehicle except with the approval of, or under the supervision of, an authorised Officer of the Council or any Police Officer.
- 16.3. No words, letters or graphics may be displayed on the glazing of the vehicle.
- 16.4. The proprietor of the Hackney Carriage may display on the side of the vehicle the trading name and contact number of the operator to whom all advance bookings for this vehicle are taken. This is restricted to a single advertisement to the front passenger and drivers doors and to be contained within a border with a maximum size of 600mm in width and 300mm in height and for the bonnet and boot of the vehicle, a single advertisement of a maximum size of 600mm in width and 150mm in height to be agreed in advance in writing.
- 16.5. The proprietor shall maintain such signs in a clean and tidy condition and shall further remove any sign which is damaged, or defaced.
- 16.6. No advertisement shall be displayed within the interior of the vehicle.
- 16.7. No other material may be displayed on the outside of the vehicle without the written authorisation of the Council.

## **17.0. Table of Fares and Notices**

- 17.1. The licence holder shall display inside the vehicle in such a position as to be visible at all times to persons conveyed therein the following:-
  - 17.1.1 a table of fares provided by the Council
  - 17.1.2 the maximum number of persons who may be carried by the vehicle
  - 17.1.3 the licence number of the vehicle
  - 17.1.4 any other notice reasonably required by the Council.

## **18.0. Private Mobile Radio**

18.1. Installation or the use of Citizen Band (CB) radio equipment, or scanners, within the licensed vehicle is not permitted.

## **19.0. Vehicle Licence Plate**

19.1. The Hackney Carriage vehicle licence plate shall be attached to the backing plate supplied by the Council and positioned either above or below the rear vehicle registration number plate or as determined by an authorised officer.

19.2. The licence holder shall ensure that the Hackney Carriage plate is at all times kept maintained in such good condition that the information contained is clearly visible to the public view.

19.3. The licence plate shall remain the property of the Council and shall be returned to the Council upon the expiration, suspension or revocation of this licence, including a suspension under Section 68 of the Local government (Miscellaneous Provisions) Act 1976.

19.4. The proprietor or driver of a licensed vehicle must surrender its Lichfield District Council licence plate to any appropriately authorised officer.

## **20.0 Luggage**

20.1 Passengers should carry nothing in arms whilst in transit.

## **21.0 Wheelchair access**

21.1 The licence holder may display on suitably adapted vehicles symbols or form of words indicating that the vehicle has been adapted for use by disabled persons. The Council will however require evidence of the acceptability of such adaptation and shall approve the form of words and symbols.

## **22.0 Safety Equipment**

22.1 There shall be provided in the vehicle a suitable fire extinguisher of at least 1.0kg capacity. It shall be fitted in such a position as to be readily available for immediate use in an emergency. The fire extinguisher must conform to the appropriate British Standard and be maintained to manufacturers specifications.

## **23.0 Roof Signs**

23.1 The hackney carriage (other than a "London" style taxi) must be fitted with a proprietary illuminated roof sign of a size of not less than 150mm in height and 600mm in width showing to the front the word TAXI in large black capital letters on a white background.

23.2 The roof sign must be connected electrically to the taximeter and should be illuminated in the hours of darkness when the vehicle is plying for hire and extinguished each and every time a fare is taken within the Licensing Authority of Lichfield District Council.

23.3 The roof sign must be kept maintained in a good clean and legible condition at all times.

## **24.0 Taximeters**

24.1 All hackney carriages shall be fitted with a taximeter of a type approved by the Council.

24.2 The meter shall be capable of displaying the various tariffs as approved by the Council, including extra charges recoverable under the approved table of fares.

24.3 The meter shall be located within the vehicle in such a position that any fares and charges are visible to persons traveling in the vehicle.

24.4 The taximeter shall be calibrated to the Council agreed tariffs currently in force and sealed with an official Lichfield District Council seal by a person authorised by the Council to seal taximeters. The taximeter must be sealed in such a way that the calibration of the meter cannot be tampered with.



- 24.5 The taximeter fitted to the vehicle shall be subject to testing on demand to be carried out by the Council, to ensure that it is calibrated to the fare table currently in force at the time.
- 24.6 Any Council seal which is tampered with, without good reason, will render the licence holder and vehicle liable to formal action by the Council.
- 24.7 The taximeter must be used for all fares taken and the maximum fare charged is that displayed on the meter.
- 24.8 For the avoidance of doubt, nothing in the above condition shall prevent or prohibit a driver charging less than the prescribed fare (which is intended as a maximum fare only). The meter must not be started until the hirer is sat in the vehicle and must be operated for the entire journey.

## **25.0 CCTV**

- 25.1 CCTV cameras may be installed in vehicles, provided their use is clearly signed within the vehicle and all regulations covering the use of such equipment is adhered to.

## **26.0 Offences and Penalties**

- 26.1 Contravention of these conditions constitute an offence under the Local Government (Miscellaneous Provisions) Act 1976. In addition it is also an offence to obstruct an authorised officer or Police Officer in his duty. Any person who commits an offence against any of the provisions of this Part of this Act in respect of which no penalty is expressly provided shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale. Contravention may also result in suspension or revocation of the licence in accordance with the statutory provision

## **27.0 Revocation and Modification of Conditions**

- 27.1 The Council reserves the right,(at its own behest and at any time) to revoke, vary, or modify any of these conditions and/or to make such additional conditions as it may deem requisite, either generally or in respect of any particular licence or occasion.

## PRIVATE HIRE VEHICLE – SPECIAL EVENTS Supplementary Conditions of Licence

### Introduction

The Private Hire Vehicle Licence, is granted subject to complying with the following conditions of licence *in addition* to the standard private hire vehicle conditions attached.

The 'Licence Holder' is the proprietor of the vehicle.

All references to the "Council" in these conditions mean Lichfield District Council, District Council House, Frog Lane, Lichfield, Staffs, WS13 6ZE.

### Supplementary Special Event Conditions

#### 1.0 Vehicle Type

- 1.1 Only vehicles pre-approved by an authorised officer will be accepted as special events vehicles.
- 1.2 Special Event Vehicles must be, in the opinion of the licensing officer, of such quality and character as to be considered a 'luxury' vehicle.

#### 2.0 Seating

- 2.1 Vehicles will be licensed for a maximum of 8 passengers only, regardless of the number of seats available within the vehicle. Proprietors of such vehicles must sign a declaration that they are aware that their vehicle is only licensed for 8 passengers and agree to ensure that no more than 8 people are carried under any circumstances.
- 2.2 Seating must have adequate dimensions and leg room in the opinion of the licensing officer.
- 2.3 On L-shaped seats, only one seat on the right angled corner will be accepted.

#### 3.0 Vehicle Testing

- 3.1 All special events vehicles will attend two vehicle compliance checks per year.
- 3.2 Vehicle compliance checks will take place at one of Lichfield District Council's agreed garages.
- 3.3 Failure of any of these checks will mean an immediate suspension of the private hire special events licence, until repairs can be made, the test has been re-taken and the vehicle has been found to be satisfactory.
- 3.4 In addition to this, all proprietors should undertake their own documented monthly checks to the council's specification.
- 3.5 All limousines with an import date after 3 May 2005 must hold a Single Vehicle Approval (SVA) certificate

#### 4.0 Electrical Equipment

- 4.1 If applicable, the controls for any driver screen and/or sunroof should be isolated, so the driver alone may operate them

## **5.0 Provision of Alcohol**

5.1 No persons under 18 years of age shall be permitted to drink alcohol within the vehicle

## **6.0 Spares and Repair**

6.1 A spare tyre, of an approved type only, and the appropriate tools to make the repair must be carried, or a contract be in place with a repairer who can supply such parts immediately in the event of a flat tyre.

## **7.0 Licence Plates**

7.1 All Private Hire Special Events vehicles must at all times display the square licence badge in the internal left corner of the vehicles front windscreen. The rectangular licence plate shall be attached to the backing plate supplied by the Council and positioned either above or below the rear vehicle registration number plate, or as determined by an authorised officer.

7.2 The licence plates must not be obstructed from view, inside or outside the vehicle, at any time

7.3 The interior licence plate should be produced on demand to any authorised officer.

## **8.0 Revocation and Modification of Conditions**

8.1 The Council reserves the right (at its own behest and at any time) to revoke, vary, or modify any of these conditions and/or to make such additional conditions as it may deem requisite, either generally or in respect of any particular licence or occasion.

## **9.0 The following sections of the general private hire vehicle conditions ONLY are suspended for special event vehicles:**

Section 10.0	Vehicle Type	(replaced by section 1.0)
Section 11.0	Comfort of Passengers	(replaced by section 2.0)
Section 12.0	Colour	
Section 13.0	Age Limit of Vehicles	
Section 18.0	Vehicle Licence Plate	(replaced by section 10.0)

## **10.0 The following individual conditions of the general private hire vehicle conditions ONLY are suspended for special event vehicles:**

15.1 and 15.2 – Advertising and Official Signs

## OPERATOR LICENCE

### Conditions of Licence

**Introduction** - The vehicle operators licence is granted subject to complying with the following conditions of licence.

All references to the "Council" in these conditions mean Lichfield District Council, District Council House, Frog Lane, Lichfield, Staffs, WS13 6YX,.

#### 1.0. General Conditions

- 1.1. If you are convicted of any offence whilst the licence is in force, you must report the details of the conviction in writing to the Council within **7 days**.
- 1.2. If any details submitted to your application for an Operator Licence change, you must notify the Council in writing, within **7 days**.
- 1.3. The licence is granted to you in respect of the premises notified to the Council at the time of application.
- 1.4. If you intend to change the business address of the operation, you must first obtain written consent from the Licensing Officer and if approved you must return your original licence for amendment. Consent will only be granted in respect of premises for which planning permission for the use of a Operators business has already been granted.

#### 2.0. Planning Consent Requirements

- 2.1. The applicant must be able to show that either:-
  - 2.1.1 Planning permission has been granted for the operating base;
  - 2.1.2 That having regard to the premises and the mode of operation that planning permission is not required.
  - 2.1.3 If a business is operated without the appropriate planning permission in defiance of any planning enforcement notice, then the Operators Licence is liable for revocation.
- 2.2. If the operating premises specified in the application are owned by the Council, the permission of the department responsible for the letting or leasing of the property must be obtained prior to submission of the application.

#### 3.0.0 Keeping of Records

##### 3.1.0 Keeping of Records

- 3.1.1 The Operators are required to keep in a suitable book with consecutively numbered pages a record of all hire bookings, vehicles and drivers operated, in the manner specified below. It is an offence not to do so.

### **3.2.0. Record of Hiring**

3.2.1. Before each journey is commenced, the following details must be recorded in the book:

- 3.2.1.1 The time and date of the booking made.
- 3.2.1.2 Method of booking (in person, by telephone, fax etc).
- 3.2.1.3 The name of the hirer.
- 3.2.1.4 The time and place of pick-up.
- 3.2.1.5 Destination (s) specified at time of hiring by the hirer (s).
  
- 3.2.1.6 The identity of vehicle undertaking the hiring (vehicle registration vehicle licence number).
- 3.2.1.7 The identity of the driver undertaking the hiring (driver name and licence number).
- 3.2.1.8 The fare quoted to the hirer for the journey.
- 3.2.1.9 Date of journey if different from (a) above.
- 3.2.1.10 Whether the booking was sub contracted, if so the name of the sub contractor, the licensing authority and the operator licence name and number.

3.2.2. Records of bookings / hiring's must be retained for a minimum period of 12 Months from the date of hiring.

### **3.3.0 Record of Driver(s)**

3.3.1 The operator must retain certain documents relating to the vehicles and drivers operated as follows:-

3.3.2. Records of the drivers used by the operator must contain the following details:

- 3.3.2.1 name
- 3.3.2.2 date of birth
- 3.3.2.3 address ( of normal residence)
- 3.3.2.4 date driver became available to the operator
- 3.3.2.5 national insurance number
- 3.3.2.6 driving licence number and category of vehicle for which eligible to drive
- 3.3.2.7 photograph of the driver
- 3.3.2.8 date driver ceased to be available to the operator

3.3.3. These records must be kept by the operator for a period of no less than 12 Months from the date the driver ceased to be available to the operator

### **3.4.0. Record of Vehicle(s)**

3.4.1. Record(s) of the vehicle(s) at the disposal of the operator must contain the following details:

- 3.4.1.1 manufacturer, model and colour
- 3.4.1.2 registration number
- 3.4.1.3 registered owner
- 3.4.1.4 date when vehicle became available to operator
- 3.4.1.5 copy of current MOT certificate
- 3.4.1.6 copy of current valid certificate of insurance
- 3.4.1.7 date vehicle ceased to be available to the operator

3.4.2. Record(s) of a vehicle(s) must be kept for a period of 12 Months from the date the vehicle ceased to be available to the operator

3.4.3. The information regarding vehicles, drivers and insurance must be retained on the operator's premises and be available for inspection at any time by a Police Officer or an authorised Officer of the Council.

#### **4.0. Advertising**

- 4.1. The operator must ensure that the words 'taxi' 'taxis', 'cab' or any words so closely resembling those words as to likely to be mistaken for them are not displayed on or about any Private Hire vehicle and including on any sign or notice displayed on the operating premises or on any stationary or business cards.

#### **5.0 Complaints against the operator**

- 5.1 The operator must notify the Council within 24 hours of any complaint made against him/her arising from the business as an operator and the action, if any, the operator has taken or proposes to take in respect of the complaint.
- 5.2 Records of all complaints must be kept for a minimum period of 12 Months from the date of the complaint.

#### **6.0 Operator or Person In charge**

- 6.1 The licensed operator or a responsible person (manager) nominated by the operator in writing to the Council, must be on the premises or in charge of the operation and immediately contactable by any authorised officer at any time whilst the business is being operated.
- 6.2 Operators will be required to notify the Council of the name(s) of the person responsible for the day to day running of the operating centre named on the licence, and of any changes of that person
- 6.3 The operator must also ensure that any person left in charge of the premises in the absence of the operator is fully aware of these conditions of licence, particularly those relating to the keeping and maintaining of records for drivers, vehicles, and bookings and the need to comply with the conditions at all times.

#### **7.0 Standards of service**

- 7.1 The operator must provide a prompt efficient reliable service to all members of the public at all times and shall in particular:
- 7.1.1 Ensure the prompt attendance of a hired vehicle at the appointed time and place, unless the vehicle is delayed or prevented from attending due to circumstances beyond his/her control.
- 7.1.2 Ensure that any room or place provided by him/her for the public to book or wait for a hired vehicle is adequately heated, ventilated and lit and provided with suitable seats for waiting passengers.
- 7.1.3 The operator shall not refuse to accept a booking made in advance for a hirer with a guide, hearing or other assistance dog and its owner or keeper.

#### **8.0 Display of Licence**

- 8.1 You must display a copy of the current operators licence on the premises in a prominent position and be clearly visible at all times.
- 8.2 The holder of the operator licence must :-
- 8.2.1 Produce his/her licence when requested by a constable or authorised officer.
- 8.2.2 Return the licence to the Council within 7 days of expiry or revocation (and in the case of suspension, the Council may require the licence to be returned).

#### **9.0 Offences and Penalties**

- 9.1 Contravention of these conditions constitutes an offence under the Local Government (Miscellaneous Provisions) Act 1976. In addition it is also an offence to obstruct an authorized officer or Police Officer in his duty. Any person who commits an offence against any of the provisions of this Part of this Act in respect of which no penalty is expressly provided shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale. Contravention may also result in suspension or revocation of the licence in accordance with the statutory provision.

#### **10.0 Revocation and Modification of Conditions**

- 10.1 The Council reserves the right,(at its own behest and at any time) to revoke, vary, or modify any of these conditions and/or to make such additional conditions as it may deem requisite, either generally or in respect of any particular licence or occasion.

## PRIVATE HIRE VEHICLE Conditions of Licence

### Introduction

The Private Hire Vehicle Licence is granted subject to complying with the following conditions of licence. The 'Licence Holder' is the proprietor of the vehicle.

All references to the "Council" in these conditions mean Lichfield District Council, District Council House, Frog Lane, Lichfield, Staffs, WS13 6YX.

### General Conditions

#### 1.0. Licence Document

- 1.1. Licences for a Private Hire Vehicle will run for a maximum period of twelve months
- 1.2. The licence document must be kept in a place where the vehicle is operated from and must be readily available for inspection by a duly authorised Council Officer or Police Officer.
- 1.3. If you decide to work for another operator, you must notify the Council within **7 days**.
- 1.4. If your Private Hire Vehicle licence expires you must return the vehicle licence, identification plate and to the Council within **7 days**.
- 1.5. The licence plate shall not be transferred to another vehicle without the consent of the Council.
- 1.6. The licence holder must notify the Council of any changes:-
  - 1.6.1 in the particulars disclosed on any application forms
  - 1.6.2 or in respect of any forms or documents submitted in order to make an application for a Private Hire Vehicle Licence.

#### 2.0. Deposit of Driver's Licence

- 2.1. If the licence holder permits or employs any other person to drive the vehicle for Private Hire they shall, before that person commences to drive the vehicle, ensure that the driver has a valid Combined Drivers Licence and the vehicle owner shall retain a photocopy of that Drivers Licence, until such time as the driver ceases to be permitted or employed to drive the vehicle.

#### 3.0. Change of Address

- 3.1. If you change your address at any time during the period of the licence, you must inform the Council, in writing, within **7 days**.
- 3.2. This licence is issued on the condition that the private hire vehicle to which it relates is not licensed as either a hackney carriage or private hire vehicle by another authority. If Lichfield District Council becomes aware of other vehicle licenses (Hackney Carriage or Private Hire) running concurrently with this licence, then this licence will be revoked.

#### 4.0. Vehicle Insurance

- 4.1. The licence holder shall produce all vehicle insurance documents on demand to the Council at any time during the period of the licence.

- 4.2. The licence holder shall ensure that a full certificate or cover note of insurance is produced to the Council within 7 days of expiry or upon request or any earlier renewal.
- 4.3. Before permitting any licensed Hackney Carriage or Private Hire driver to drive the vehicle, the licence holder shall ensure that the driver is adequately insured to do so.

## **5.0 Inspection**

- 5.1. The Council may require in writing for the licence holder to produce their vehicle for inspection at a Lichfield District Council selected Test Station up to three times annually at the cost of the licence holder. Inspections carried out on an unannounced basis will not be included within the above figure.

## **6.1 Vehicle Road Fund Licence**

- 6.1. The licence holder shall produce a current vehicle road fund licence on demand to the Council at any time during the period of the licence.

## **7.0. Ministry of Transport Test Certificate**

- 7.1. The licence holder is required to produce on demand to an authorised officer of the Council or a Police Officer, an annual Ministry of Transport Test Certificate after 3 Years from the date of initial registration.

## **8.0. Accidents**

- 8.1. Any accident or damage involving the licensed vehicle must be reported to an officer in the Environmental Health Department at the Council. This may be an oral report in the first instance but must be followed up by the completion of an Accident Report Form within 120 hours of the accident.

## **9.0. Alteration of Vehicles**

- 9.1. No material alterations or change in specification, design, condition or appearance of the Private Hire Vehicle shall be made at any time while the licence is in force without the prior approval of the Council.

## **10.0. Vehicle Type**

- 10.1. The Private Hire Vehicle must not be of an approved type,(approved by the Public Carriage Office) and must not in any way shape or form resemble a Hackney Carriage.
- 10.2. The seating arrangement in 'People Carrier' type vehicles will be fixed and approved by the Council. Every seat should have direct access to an exit door, therefore no seat which needs to be tilted, moved or in any way adjusted to gain access to another row of seats will be allowed. The seating will not be moved once the approval has been granted.
- 10.3. All saloon / estate type vehicles must have a minimum of 4 doors excluding rear doors/tailgate/boot.
- 10.4. Vehicles capable of carrying more than 4 passengers e.g. people carriers/minibuses and similar type, must have a minimum of 3 doors excluding the rear doors/tailgate/ boot. The third door must be located on the near side of the vehicle to ensure safe access and egress of passengers. There must be sufficient space for luggage whilst still leaving gangways clear and there shall be a suitable restraint available to secure any luggage in the passenger compartment.
- 10.5. Any vehicle that in the opinion of the Council has received any modification, other than by a recognised vehicle manufacturer, shall at the discretion of the Council undergo an additional safety test at a testing centre selected by the Council.



## **11.0. Comfort of Passengers**

11.1. Seating must have adequate dimensions and leg room in the opinion of the licensing officer.

## **12.0. Colour**

12.1. All licensed Private Hire vehicles can be any colour except white or anything which appears to be white.

## **13.0. Age Limit of Vehicles**

13.1 No Private Hire vehicle will be permitted to be more than six years old from date of first registration (unless the vehicle is in an exceptional condition as determined by the Council).

## **14.0. Maintenance of Vehicle**

14.1 The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire, be kept in a good, clean and efficient working order.

14.2. The interior of the vehicle shall be kept clean and tidy at all times when in use as a Private Hire vehicle. The exterior of the vehicle is to be clean at all times, having due regard to the weather conditions on the day.

14.3. The vehicle shall also carry a spare wheel and tyre, which complies with all legal requirements, and the necessary tools to change the same. Space saver tyres must only be used in accordance with manufacturer's instructions.

14.4. The preceding condition 8.3 shall not apply in the case of vehicles specifically modified to operate using gas as an alternative fuel and where the gas fuel tank occupies the existing spare wheel compartment.

## **15.0. Advertising and Official Signs**

15.1. All Private Hire Vehicles must display Private Hire Identification signs as supplied by the Council and shall ensure each is permanently affixed to both of the rear passenger doors of the vehicle aligned horizontally with the rear door handles and shall remain on display at all times.

15.2. These signs shall not be removed from the vehicle except with the approval of, or under the supervision of, an Authorised Officer of the Council or any Police Officer.

15.3. No words, letters or graphics may be displayed on the glazing of the vehicle.

15.4. The proprietor of the Private Hire vehicle may display on the vehicle the trading name and contact number of the operator to whom all advance bookings for this vehicle are taken. This is restricted to a single advertisement on the front passenger and drivers doors (if licensed for 8 seats then one rear panel) and to be contained within a border with a maximum size of 600mm in width and 300mm in height and for the bonnet and boot of the vehicle, a single advertisement of a maximum size of 600mm in width and 150mm in height to be agreed in advance in writing.

15.5. No other material may be displayed on the outside of the vehicle without the written authorisation of the Council.

15.6. The proprietor shall maintain such signs in a clean and tidy condition and shall further remove any sign which is damaged, or defaced.

15.7. No advertisement shall be displayed within the interior of the vehicle.

## **16.0. Notices**

16.1. The licence holder shall display inside the vehicle any notice reasonably required by the Council.

## **17.0. Private Mobile Radio**

17.1. Installation or the use of Citizen Band (CB) radio equipment, or scanners, within the licensed vehicle is not permitted.

## **18.0. Vehicle Licence Plate**

18.1. The Private Hire vehicle licence plate shall be attached to the backing plate supplied by the Council and positioned either above or below the rear vehicle registration number plate or as determined by an authorised officer.

18.2. The licence holder shall ensure that the Private Hire Vehicle Plate is at all times kept maintained in such good condition that the information contained is clearly visible to the public view.

18.3.1 The licence plate shall remain the property of the Council and shall be returned to the Council upon the expiration, suspension or revocation of this licence, including a suspension under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

18.4 The proprietor or driver of a licensed vehicle must surrender its Lichfield District Council licence plate to any appropriately authorised officer.

## **19.0. Seating Capacity**

19.1. The licence holder shall not convey or permit to be conveyed in the licensed vehicle any greater number of persons than that prescribed in the licence and on the plate issued by Council.

## **20.0. Wheelchair access**

20.1. The licence holder may display on suitably adapted vehicles symbols or form of words indicating that the vehicle has been adapted for use by disabled persons. The Council will however require evidence of the acceptability of such adaptation and shall approve the form of words and symbols.

## **21.0. Safety Equipment**

21.1. There shall be provided in the vehicle a suitable fire extinguisher of at least 1.0kg capacity. It shall be fitted in such a position as to be readily available for immediate use in an emergency. The fire extinguisher must conform to the appropriate British Standard and be maintained to manufacturers specifications.

## **22.0. Vehicle Roof Signs**

22.1. The provision of roof signs to any private hire vehicle is prohibited.

## **23.0. CCTV**

23.1. CCTV cameras may be installed in vehicles, provided their use is clearly signed within the vehicle and all regulations covering the use of such equipment is adhered to.

## **24.0. Offences and Penalties**

24.0. Contravention of these conditions constitute an offence under the Local Government (Miscellaneous Provisions) Act 1976. In addition it is also an offence to obstruct an authorised officer or Police Constable in his duty. Any person who commits an offence against any of the provisions of this Part of this Act in respect of which no penalty is expressly provided shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale. Contravention may also result in suspension or revocation of the licence in accordance with the statutory provision.

**25.0. Revocation and Modification of Conditions**

25.0. The Council reserves the right (at its own behest and at any time) to revoke, vary, or modify any of these conditions and/or to make such additional conditions as it may deem requisite, either generally or in respect of any particular licence or occasion.

I am currently in the process of applying for a vehicle licence, private hire 'Special Events' licence and operators licence.

I have just recently retired from the West Midlands Police Service, having completed thirty years exemplary service, and have started up a new business, 'Top Mark Chauffeurs Ltd', which is registered at my home address in Edingale.

The primary function of my business is to provide a corporate chauffeuring service. My unique selling point being that during my service with the police I completed twenty two years on the traffic department, during this time I qualified to an advanced level for motorcycles, having already being an advanced car driver since 1989. I also attended and passed courses for the Special Escort Group, for both cars and motorcycles. One of my roles and responsibilities was being involved in VIP escorts, and on many occasions acting as team leader for dignitaries visiting the West Midlands region. As a team leader I was in charge of the planning of all routes to and from venues, and in charge of the escort on the day of the visit. I have had the pleasure of escorting members of the British Royal family, Prime Ministers, American Presidents, Russian President and Chinese dignitaries. I was involved in the G8 summit in Birmingham in 1998, and again in 2005, when it was held at Gleneagles. My skills and experience were recognised and I was selected as part of the Central Escort Group (National), for the Tour of Britain cycle race in 2009, and more recently at the London Olympics in 2012.

I have purchased a 2013 Mercedes E class hybrid, for the use of my business. This vehicle will not be metered, or have a taxi radio fitted. All transfers will be prebooked via the office, and all payments will be via invoice.

It is my intention that high end corporate and businesspersons will utilise the service I provide. Their expectation will be that any corporate image portrayed will be of the highest standard, and my vehicle will need to meet those exacting standards. It is essential that my vehicle blend in with other vehicles that are involved in providing this service. I will be working in close liaison with an ex colleague, who has an established business in this field. All of his vehicles have been granted an exemption to displaying private hire plates, due to the nature of their work.

I fully accept that my vehicle and drivers will need to be licenced and tested in accordance with all regulations set by Lichfield Council, and I am in no way attempting to avoid any regulations that may apply. I do however consider that to display a plate on the rear of my vehicle would have a considerable negative effect on the corporate image that my business aims to project. This is especially so, considering vehicles registered in East Staffordshire and South Derbyshire have the opportunity to apply for an exemption from overtly displaying a plate. Any negative perception perceived by business clientele will have a negative impact on my workload, it is essential that the best impression be given at all time to ensure continuity of employment. It is with this in mind that I wish to appeal against overtly displaying the 'Special Events' plate, if this needs to be submitted formally could you please advise.

I fully understand that should I be granted this concession that all other appropriate regulations would be strictly adhered to.

I submit this for your consideration and look forward to your reply at your earliest convenience.

**REGULATORY AND LICENSING COMMITTEE**

**Date: 6 July 2015**

**Agenda Item: 5**

**Contact Officer: Neil Wait**

**Telephone Number: 01543 308734**

**SUBMISSION BY NEIL WAIT- SENIOR ENVIRONMENTAL PROTECTION OFFICER**

**CONTAMINATED LAND STRATEGY 2015**

**1. Purpose**

- 1.1 The purpose of this report is seek approval by Members to adopt the Contaminated Land Strategy 2015. (Appendix A)

**2. Background**

- 2.1 The contaminated land regime is set out in Part 2A of the Environmental Protection Act 1990 and gives specific legal powers and duties to local authorities. The Local Authority has a duty to adopt a strategic approach to carrying out its inspection duty under Section 78B(1).
- 2.2 The strategic approach should be set out in a written strategy, which Local Authorities should formally adopt and publish.
- 2.3 Lichfield District Council adopted its first Inspection Strategy for Contaminated Land in June 2001. Two new Statutory Guidance documents were published by central government in April 2012 and further supporting contaminant thresholds in December 2014.
- 2.4 The Contaminated Land Statutory Guidance, published April 2012, states that the strategy should stay in periodic review to ensure that it remains up to date.

**3. Current Position**

- 3.1 Environmental Health have produced Lichfield District Council's Contaminated Land Strategy 2015 (Appendix A). The Contaminated Land Strategy 2015 presented here incorporates the changes to the regime in order to bring the strategy document up to date.
- 3.2 The strategy aims to:
- Continue to identify and remove unacceptable risks to human health through future development of land.
  - Seek to ensure that contaminated land is made suitable for its current use.
  - Ensure that the burdens faced by individuals, companies and the community are proportionate, manageable and compatible with the principles of sustainable development.
- 3.3 The Contaminated Land Strategy 2015 includes:
- Its aims, objectives and priorities, taking into account the characteristics of the area.
  - A description of relevant aspects of its area.
  - Our approach to strategic inspection of the Lichfield District.
  - Our approach to prioritisation of detailed inspection activity.
  - How our approach under Part IIA fits its broader approach for dealing with contamination.
  - How we will seek to minimise unnecessary burdens on the tax payer.
- 3.4 The proposal will update the existing statutory strategy to bring it in line with the changed statutory guidance and so continue to support delivery of effective regulatory input to the management of land contamination issues.

- 3.5 Initial desk top work identified 55 sites that required intrusive investigation. We have completed 18 of these site investigations.
- 3.6 None of the sites already investigated have been determined to be Contaminated Land.
- 3.7 We have a further 37 Sites that currently require further investigation.
- 3.8 Environmental Health currently has an annual budget of £6,000 for Contaminated Land.
- 3.9 The timetable for investigating sites was determined by Cabinet in 2011, we plan to continue to investigate sites in line with this decision. Cabinet decided that sites would be investigated one site at a time within the existing budget.

#### **4. Risk**

- 4.1 Contaminated Land and its effects on human health are key aspects of the quality of life and confidence in the environment in which we live.
- 4.2 The statutory process of regulation and enforcement contribute to the well-being and safety of our residents and towards protecting and providing a high quality and sustainable environment for this and future generations.
- 4.3 The grant funding from Department for Environment, Farming and Rural Affairs has now significantly reduced and will now only fund emergency cases or the continued remediation of contaminated land sites that are of the highest priority. It is not envisaged that we will have any sites that will be eligible for grant funding. The grant funding ceases 1<sup>st</sup> April 2017.
- 4.4 Previous Defra grants totalling £99K assisted 6 site investigations. Members should be aware that with grants ceasing and our existing limited budget, completion of the remaining 37 site investigations could take significant time.

#### **5. Recommendation**

- 5 For the Committee to formally adopt the revised Contaminated Land Strategy 2015.

#### **Background Documents:**

##### **Appendix A – Contaminated Land Strategy 2015**

Contaminated Land Strategy 2001-

[http://www.lichfielddc.gov.uk/downloads/file/2087/contaminated\\_land\\_strategy](http://www.lichfielddc.gov.uk/downloads/file/2087/contaminated_land_strategy)

# **CONTAMINATED LAND STRATEGY 2015**

**JUNE 2015**

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## 1. Introduction and Legislative Context

### 1.1 Background to the legislation

The UK has a strong industrial heritage, having led the Industrial Revolution from the mid-18<sup>th</sup> Century onwards. Lichfield District has had a diverse range of industries and commercial concerns. The economy developed with little regard to the environment; air, water and land pollution was barely considered in the drive to increase industrial output. This continued until the mid-1970s, when legislation to protect the environment began to emerge.

Modern industry is now regulated much more stringently on environmental matters such as pollution and carbon emissions; however, an unwelcome legacy remains, with many redundant factories, landfills and other sites, and their environmental impacts, still to be addressed.

The Government, in its response to the 11<sup>th</sup> report of the Royal Commission on Environmental Pollution 1985 (Royal Commission on Environmental Pollution, 'Managing Waste: The Duty of Care') announced that the Department of the Environment was preparing a circular on the planning aspects of contaminated land. The draft the circular stated that:

*Even before a planning application is made, informal discussions between an applicant and the local planning authority are very helpful. The possibility that the land might be contaminated may thus be brought to the attention of the applicant at this stage, and the implications explained.*

This suggests that it would be advantageous for the planning authorities to have available a list of potentially contaminated sites.

In 1988 the Town and Country Planning (General Development) Order required local planning authorities to consult with waste disposal authorities if development was proposed within 250m of land which had been used to deposit refuse within the last 30 years.

In January 1990 the House of Commons Environment Committee published its first report on contaminated land (Contaminated Land, First Report, Session 1989-1990, HC170, 1990). This document, for the first time, expressed concern the Government's suitable for use approach "...may be underestimating a genuine environmental problem and misdirecting effort and resources" The Committee produced 29 recommendations, including the proposals that:

*The Department of the Environment concern itself with all land which has been so contaminated as to be a potential hazard to health or the environment regardless of the use to which it is to be put, and;*

*The Government bring forward legislation to lay on local authorities a duty to seek out and compile registers of contaminated land.*

Immediately following the House of Commons report the Environmental Protection Act 1990 had at Section 143, a requirement for local authorities to compile, 'Public registers of land which may be contaminated'. If enacted this would have required local authorities to maintain registers of land that was, or may have been contaminated, as a result of previous (specified) uses, regardless of the actual risks posed to humans or property.

In March 1992, the concern about the potential 'blighting' effect of public registers resulted in a press release published by the Secretary of State delaying the introduction of section 143 stating:

*The Government were concerned about suggestions that land values would be unfairly blighted because of the perception of the registers.*

On the 24<sup>th</sup> March 1993 the Government announced that the proposals for contaminated land registers were to be withdrawn and a belt and braces review of the land pollution responsibilities was to be undertaken.

The following year (1994), the Department of the Environment consultation paper, Paying for our Past (Paying for Our Past, March 1994), elicited no less than 349 responses. The outcome of this was the policy document, Framework for Contaminated land (Framework for Contaminated Land, November 1994). This useful review emphasised a number of key points:

- The Government was committed to the "polluter pays principle", and the "suitable for use approach".
- Concern related to past pollution only (there are effective regimes in place to control future sources of land pollution).
- Action should only be taken where the contamination posed actual or potential risks to health or the environment and there are affordable ways of doing so.
- The long standing statutory nuisance powers had provided an essentially sound basis for dealing with contaminated land.

It was also made clear that the Government wished to:

- Encourage a market in contaminated land;
- Encourage its development, and
- That multi functionality was neither sensible nor feasible.

The proposed new legislation was first published in the form of Section 57 of the Environment Act 1995, which amended the Environmental Protection Act 1990 by introducing Part 2A (contaminated land). After lengthy consultation on statutory guidance, this came into force in April 2001.

## 1.2 Terminology

Most of the specific terms used in this Strategy are defined within the text. Some general aspects of terminology are:

- “Contaminated Land” is used to mean land which meets the Part 2A definition of contaminated land.
- Part 2A means Part 2A of the Environmental Protection Act 1990 (as amended).
- The terms “contaminant”, “pollutant” and “substance” as used in this Strategy have the same meaning- i.e. they all mean a substance relevant to the Part 2A regime which is in , on or under the land and which has the potential to cause significant harm to a relevant receptor, or to cause significant pollution of controlled waters.
- “Unacceptable risk” means a risk of such a nature that it would give grounds for land to be considered contaminated Land under Part 2A.
- “The Council” means Lichfield District Council.
- “The District” means land falling within the legislative boundary of Lichfield District Council.
- “Contaminant linkage” means the presence of a source (of contamination), a pathway (a way for the source to affect the receptor) and a receptor (something affected by contamination).
- “Remediation” means to carry out works to address contamination, by breaking the contaminant linkage.
- “Statutory Guidance” means any guidance on contaminated land published for this purpose in accordance with section 78A of the Environmental Protection Act 1990. At the time of writing, statutory guidance is contaminated within the following publications:
  - Department for Environment, Farming and Rural Affairs (DEFRA) ‘Contaminated Land Statutory Guidance’, April 2012.
  - Department of Energy and Climate Change (DECC) ‘Radioactive Contaminated Land Statutory Guidance’, April 2012

## 1.3 Relevant Legislation

Whilst this document details the Council’s strategy for dealing with contaminated land under Part 2A, other legislation exists which also addresses issues of contamination. Current English legislation for addressing contamination is outlined below.

It is worth noting that the Environmental Damage Regulations is a new piece of legislation that has come into force since the original strategy.

### 1.3.1 Environmental Protection Act 1990 Part 2A

Contaminated land is specifically defined under Part 2A Section 78A of the Environmental Protection Act 1990 as:

- Any land which appears 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.

Contaminated land is also defined under Part 2A Section 78A(2) as:

- Any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that-
  - a. harm is being caused or
  - b. there is significant possibility of harm being caused.

In the context of Section 78A(2), “harm” means lasting exposure to any person resulting from the after-effects of a radiological emergency, past practice or past work activity.

In order for land to be considered contaminated, the following elements must be present (as shown in figure 1):

- A source (of contamination)
- A receptor (something affected by contamination)
- A pathway (a way for the source to affect the receptor).

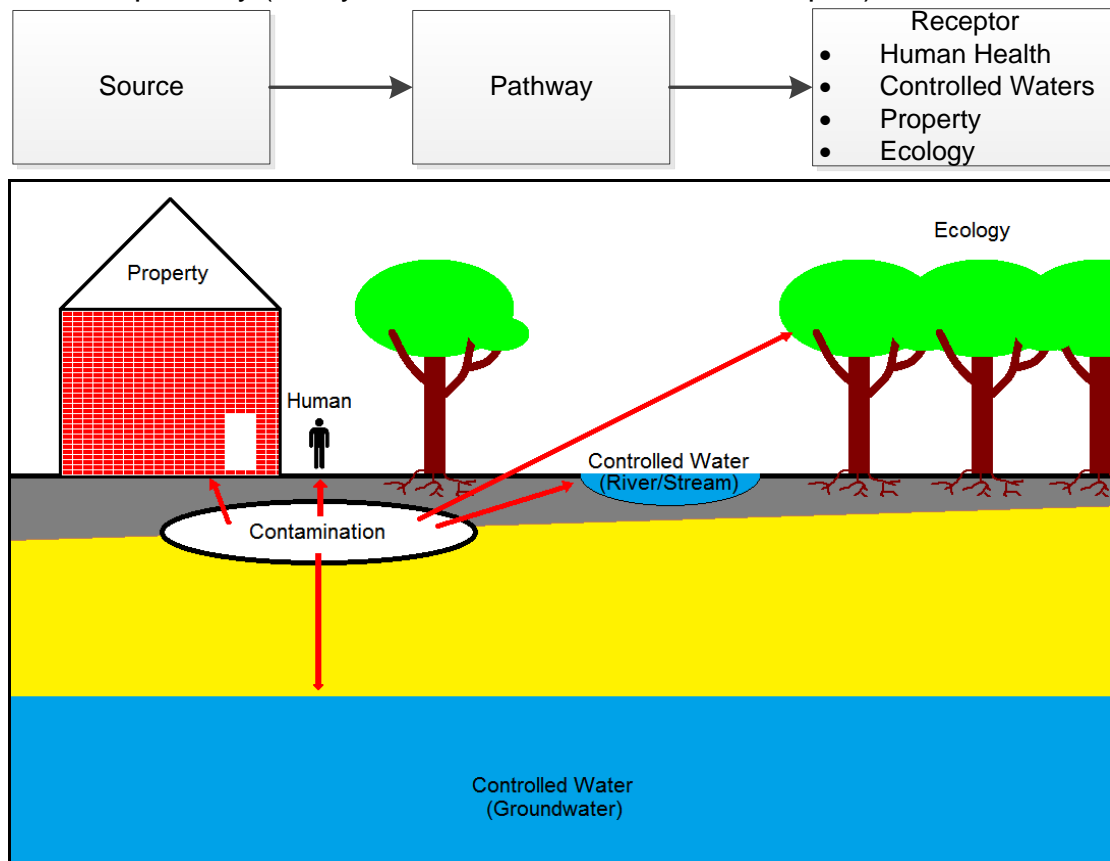


Figure 1– Contaminant Linkage

Should the land be identified as 'contaminated land' under Part 2A, then the Council would have several options to address the contamination:

- Enter negotiations with the relevant parties (liable persons) to encourage voluntary remediation.
- Serve notice on the relevant parties to compel remediation.
- Carry out remediation works and recover costs from relevant parties.

Part 2A (Section 78B) requires that local authorities cause their areas to be inspected with a view to identifying contaminated land. Relevant sections of the Act include:

- Every local authority shall cause its area to be inspected from time to time for the purpose-
  - a. of identifying contaminated land; and
  - b. of enabling the authority to decide whether any such land is land which is required to be designated as a special site.
- A local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State.

### **1.3.2 Town and Country Planning Acts**

The most common method of addressing issues of contamination is through the planning system.

For many planning applications, a desk study and site walkover will be required to be submitted as part of a planning application, as a minimum, when contamination is suspected of being present on the development site.

If the desk study identifies a potential contaminant linkage, then conditions are likely to be attached to any planning permission, which will require the site investigation works and remediation as necessary.

In this way, any new development within the District should be incapable of being determined as "contaminated land"; the responsibility for carrying out all works lies with the developer.

### **1.3.3 The Environmental Damage (Prevention and Remediation) Regulations 2009**

When there is an imminent threat of "environmental damage" or actual "environmental damage" the operator responsible is required to take immediate steps to prevent damage or further damage and notify the authority.

"Environmental Damage" under the Environmental Damage Regulations is damage of one or more of:

- Protected species and natural habitats
- Surface Water or groundwater
- Land

The Council has responsibility for damage to land under these regulations (damage to water is covered by the Environment Agency (EA), whilst damage to protected species and natural habitats is covered by Natural England).

Damage to land is defined as:

- Contamination of land by substances, preparations, organisms or micro-organisms that result in a significant risk of adverse effects on human health.

Once the Council is aware of a potential case of “environmental damage”, either because it has been reported by an operator, an interested party, or through other means, it must determine whether there is “environmental damage”.

The Council is responsible for deciding what remedial measures will be implemented, taking into account of any measures proposed by the operator, and will consult certain specified people before serving a remediation notice on the operator; operators are responsible for carrying out remediation measures.

The Environmental Damage Regulations only apply to operators of economic activities.

#### **1.3.4 Environmental Permitting Regulations 2010 (as amended)**

Under the Environmental Permitting Regulations 2010 (as amended), anyone who applies for an environmental permit (specifically, an Integrated Pollution Prevention and Control (IPPC) Permit) is obliged, on surrender of their permit:

- To avoid any pollution risk resulting from the operation of the installation
- To return the site of the regulated site to a satisfactory state, having regard to the state of the site before the installation was put into operation.

In short, when IPPC permit is surrendered, the site should be returned to the same condition it was before the permit was granted.

#### **1.3.5 Water Resource Act 1991**

The EA, under Section 161 of the Water Resources Act 1991, serves a works notice to address situations where pollution has occurred, (or is likely to) and poses a risk to groundwater.

## **2. Policy Context**

### **2.1 European Union Policy**

In 2006, the European Union (EU) published the Thematic Strategy for Soil Protection (Communication from the Commission to the Council, the



European Parliament, the European Economic and Social Committee and the Committee of the Regions- Thematic Strategy for Soil Protections), the overall objective of which is the protection and sustainable use of soil, based on the following guiding principles:

1. Preventing further soil degradation and preserving its functions:
  - when soil is used and its functions are exploited, action has to be taken on soil use and management patterns, and
  - when soil acts as a sink/receptor of the effects of human activities or environmental phenomena, action has to be taken at source.
2. Restoring degraded soils to a level of functionality consistent with the current and intended use, thus also considering the cost implications of the restoration of the soil.

## **2.2 Central Government Policy**

### **2.2.1 Contaminated Land Statutory Guidance**

The current government policy on contaminated land has outlined in the latest versions of the Part 2A Statutory Guidance.

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

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

The Government's view is that enforcing authorities should seek to use Part 2A where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed.

For example, land contamination can be addressed:

- (a) When land is developed (or redeveloped) under the planning system, during the building control process.
- (b) Where action is taken independently by landowners
- (c) Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; the regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulation 2009.

Under Part 2A, the enforcing authority may need to decide whether and how to act in situations where such decisions are not straight forward and where there may be unavoidable uncertainty underlying some of the facts of each

case. In so doing, authority should use its judgement to strike a reasonable balance between:

- (a) Dealing with risks raised by contaminants in land and the benefits of remediating land to remove or reduce those risks; and
- (b) The potential impacts of regulatory intervention including financial costs to whoever will pay for remediation (including the taxpayer where relevant) health and environmental impacts of taking action, property blight, and burdens on affected people.

The authority should take a precautionary approach to the risks raised by contamination, whilst avoiding a disproportionate approach given the circumstances of each case. The aim should be to consider the various benefits, taking account of local circumstances.

### **2.2.2 National Planning Policy**

Further to the Part 2A Statutory Guidance, the National Planning Policy Framework (Department for Communities and Local Government, 'National Planning Policy Framework', March 2012) seeks to encourage the remediation of contaminated land through the planning regime:

- Section 11: Conserving and enhancing the natural environment
- The planning system should contribute to and enhance the natural and local environment by... remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues responsibility for securing a safe development rests with the developer and/ or landowner.

## **2.3 Regional Government Policy**

### **2.3.1 River Basin Management Plans**

Lichfield District lies within the Humber River Basin Management Plan.

The Humber River Basin Management Plans have been developed by DEFRA and the EA, under the Water Framework Directive, which requires all countries throughout the European Union to manage the water environment to consistent standards.

The River Basin Management Plans focus on the protection, improvement, and sustainable use of the water environment. Many organisations and individuals help to protect and improve the water environment for the benefit of people and wildlife.

The duties of each member state under the Water Framework Directive which are of particular reference to this strategy are:

- Prevent deterioration in the status of aquatic ecosystems, protect them and improve the ecological conditions of waters.
- Aim to achieve at least good status for all water bodies by 2015. Where this is not possible and subject to the criteria set out in the Directive, aim to achieve good status by 2021 or 2027.
- Meet the requirements of Water Framework Directive Protected Areas.
- Conserve habitats and species that depend directly on water.
- Progressively reduce or phase out the release of individual pollutants or groups of pollutants that present a significant threat to the aquatic environment.
- Progressively reduce the pollution of groundwater and prevent or limit the entry of pollutants.

### **2.3.2 Staffordshire County Council**

Staffordshire County Council, as the local planning authority on mineral and water matters, plays an important part in contaminated land.

### **2.3.3 The Minerals Local Plan 1994-2006**

The Staffordshire Minerals Local Plan had been extended and has not yet been replaced, key features of the policy include:

- To conserve minerals as far as possible whilst ensuring an adequate supply to meet needs.
- To encourage sensitive working, restoration and aftercare practices so as to preserve or enhance the overall quality of the environment.

### **2.3.4 Lichfield District Council's Planning Policy**

Lichfield District Local Plan Strategy 2008-2029 adopted on 17<sup>th</sup> February 2015, in Core Policy 3- Delivering Sustainable Development, states:

'ensure that development on brownfield sites affected by contamination is remediated and that any ground instability arising from mining legacy or former land uses is addressed'

## **3.1 Roles and responsibilities**

### **3.1.1 Lichfield District Council**

The primary regulatory role under Part 2A regimes rests with local authorities. As such the Council will carry out its responsibilities under Part 2A in line with the Statutory Guidance and any other relevant policies that may apply (including the Enforcement Policy). The local authority has a duty under Part 2A to:

- Cause their areas to be inspected from time to time to identify whether any land appears to be contaminated land;

- Determined whether any particular site meets the statutory definition of contaminated land;
- Act as the enforcing authority for all contaminated land, unless the land is required to be designated as a 'special site' under the Contaminated Land (England) Regulations 2000, in which case the Environment Agency will act as the enforcing authority.

### **3.1.2 The Environment Agency**

The Environment Agency has four principal roles with respect to contaminated land under Part 2A. These are to:

- Assist local authorities in identifying contaminated land particularly land where water protection is involved;
- Provide site- specific guidance to local authorities on contaminated land;
- Act as the enforcing authority for any land designated as a special site and;
- Publish periodic reports on the state of contaminated land nationally.

If land is contaminated and falls within one of the descriptions set out in Regulations 2 and 3 of the Contaminated Land (England) Regulations 2000 it must be designated as a special site. The descriptions of land do not imply that land of that type is more likely to constitute contaminated land, only that if the land is contaminated land, the Environment Agency is best placed to be the enforcing authority. The Regulations also ensure that the Environment Agency becomes the enforcing authority in three types of case where contaminated land is affecting controlled waters and their quality, and where the Environment Agency will also have other concerns under the legislation. The three cases are wholesomeness of drinking water; surface water classification criteria; and cases where particularly difficult pollutants are affecting major aquifers.

Pollution of controlled waters is to a large extent already regulated by the Water Resources Act 1991, which gives the Environment Agency the power to serve a works notice where pollution of controlled waters is occurring. Which regime is appropriate will depend on the details of each case. To prevent the overlap of jurisdiction between the two Acts, local authorities are required to liaise with the Environment Agency where pollution of controlled waters is occurring, or is likely to occur.

Pollution of controlled waters is defined in section 78A(9) of Part IIA as "the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter"

For the purpose of the contaminated land regime, entry of pollution into controlled waters takes place where a contaminant is dissolved, or

suspended, in controlled waters, immiscible or has direct contact with those waters, on or beneath the surface of the water.

### **3.1.3 Other Agencies**

Other relevant organisations will be consulted on contaminated land issues when specific circumstances require it:

- English Nature
- Other Local Authorities

### **3.2 Aims and Objectives**

Part 2A (Section 78B) requires that the local authorities cause their areas to be inspected with a view to identifying contaminated land. Relevant sections of the Act include:

- Every local authority shall cause its area to be inspected from time to time for the purpose-
  - Of identifying contaminated land; and
  - Of enabling the authority to decide whether any such land is land of which is required to be designated a special site.
- A local authority shall act in accordance with any guidance issued for the purpose by the Secretary of State.

Therefore and in line with the Statutory Guidance and government policy, the objectives of the Council with respect to Part 2A are:

- To identify and remove unacceptable risks to human health and the environment.
- To ensure that contaminated land is made suitable for its current, or proposed, use.
- To ensure that the burdens faced by individuals, companies and society are proportionate, manageable and compatible with the principles of sustainable development.

### **3.3 Priorities**

The Statutory Guidance suggests that the Council should be rational, ordered, and efficient and it should reflect local circumstances.

The overall aim of the strategic inspection is to identify land that is potentially contaminated land the District.

The Council has finite resources and cannot realistically expect to address all potentially contaminated land within the District at once. Therefore, the Council must direct its resources at sites that appear to present the greatest risk. This is in line with the Statutory Guidance, which states:

*When the local authority is carrying out detailed inspection of land in accordance with Part 2A, it should seek to priority to particular areas of land that it considers most likely to pose the greatest risk to human health or the environment.*

The methodology for identifying priority sites for detailed inspection is outlined in Section 5 (Strategic Inspection).

### **3.4 Addressing Contamination**

The statutory guidance states:

*Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed. For example, land contamination can be addressed when land is developed (or redeveloped) under the planning system, during the building control process, or where action is taken independently by landowners. Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations; regimes for waste, water, and environmental permitting; and the Environmental Damage (Prevention and Remediation) Regulations 2009.*

The Council will therefore seek to use Part 2A only where there is no appropriate alternative available. The preferences of the Council when addressing contamination is:

- To encourage voluntary remediation by the relevant parties (this would include the encouragement of development on brownfield and potentially contaminated sites where this is appropriate).
- Where voluntary remediation cannot be carried out, to use alternative legislation, where appropriate, to bring about remediation.
- To use Part 2A as a last resort.

The above approach conforms with the Community, Housing and Health and Leisure and Parks Enforcement Policy and the Regulators Compliance Code (Department for Business Enterprise and Regulatory Reform, 'Regulators' Compliance Code', December 2007).

The Council's work under Part 2A will be carried out in tandem with other relevant policies (Section 2.3), in order to help identify the optimum means of addressing potential contamination.

## **4. THE DISTRICT OF LICHFIELD**

### **4.1 Geographical Location**

Lichfield District Council occupies the south eastern part of the county of Staffordshire bordered by other parts of the county to the north, south east and west (East Staffordshire, Tamworth, Cannock Chase and Stafford), Derbyshire, Leicestershire and Warwickshire to the east and the West Midlands conurbation to the south west. The location of Lichfield District within the UK is shown in figure 2.

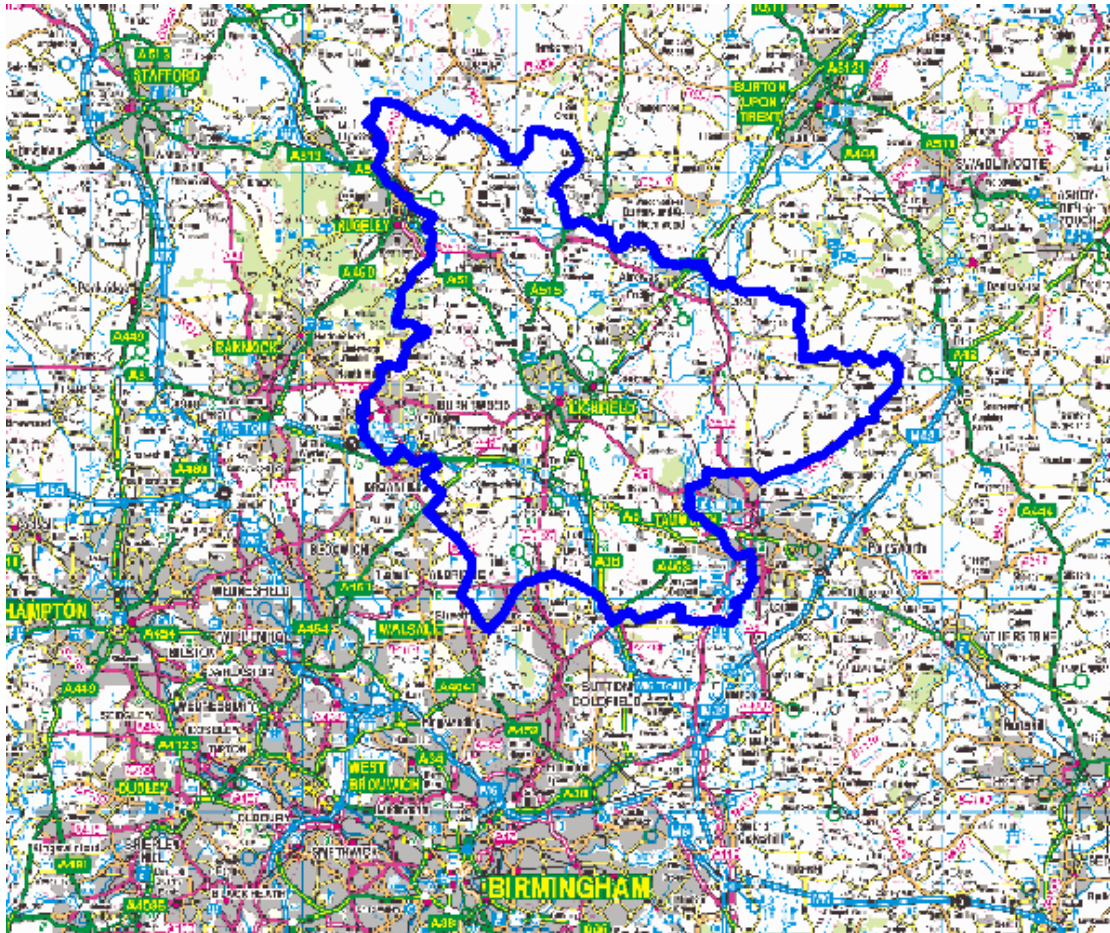


Figure 2 Location and extent of Lichfield District

**4.2 Brief Description of Lichfield District**

Lichfield District includes two main urban areas, the City of Lichfield and the town of Burntwood, together with a considerable rural area containing many villages of significant character and several contrasting high quality rural landscapes.

The southern and western parts of the District are more than 100m above sea level with a general reduction in the elevation towards the north and the drainage basin of the Trent/ Tame system.

The landscape is still dominated by agriculture in terms of land use, but only a small proportion of people are now directly employed by that industry. Lichfield District has a diverse range of industries and commercial concerns principally centred in Burntwood and Lichfield but also in Fazeley, Fradley, Shenstone and Armitage.

The A38 and A5 trunk road arteries connect at Lichfield to give good access to the Midlands Motorway system. As well as the M6 toll road that passes through the south western part of the District. Two major electrified rail the

District, a frequent commuter link from Lichfield to Birmingham and part of the Stafford branch of the West Coast Main Line from London Euston.

### **4.3 Historical Development**

There is some evidence that Lichfield District was populated during the pre-Roman times. The valleys of the Trent and Tame were of great importance during pre-historic times. Cropmarks of Neolithic enclosures have been discovered in the Trent valley at Mavesyn Ridware and Alrewas. Cropmarks in the Trent and Tame valleys also indicate Bronze Age ceremonial sites and farmsteads.

There is considerable evidence that the Romans settled within the District. In AD 48 the Romans advanced through the Midlands in a campaign against the holistic Welsh tribes. A forward base was established at Lectocetum, the modern Wall, south-west of Lichfield. This was at first a temporary camp, later replaced by a fort.

The forts were linked with each other and with garrisons and cities elsewhere by a network of roads. The most important road in the area was Watling Street (mainly the modern A5), which linked the capital at London with a fortress at Wroxeter in Shropshire. Another major route was Ryknild Street, which ran south-west from Lillchester near Derby to pass close to Wall; its route through the District is followed and paralleled by the A38.

The Anglo-Saxon period saw Anglian invaders settling in the area in the later sixth century. Staffordshire became part of Mercia. Mercia to be the largest and most powerful of the Anglo-Saxon kingdoms. Its heartland lay in the valleys of the Trent and the Tame.

The accepted data for the beginning of the conversion of the English to Christianity in Staffordshire is AD 653. Chad was appointed bishop of the Mercians in 669 and established his centre in Lichfield. A cathedral has been present in Lichfield since that time, much rebuilt and restored over the centuries.

A feature of the Norman society after the conquest in 1066, was the forest. Not necessarily an area of trees but rather a tract of country strictly preserved as a royal hunting ground, the Cannock Forest occupied the whole of the District north of the Bourne Brook, west of the River Tame and south of the River Trent to at least 1300. The royal forest in the western part of the District was granted to the Bishop of Lichfield in 1290 and hence became Cannock Chase.

Lichfield originated as a new town planned by the Bishop in the mid 12<sup>th</sup> century. In the mid 16<sup>th</sup> century it was granted city and county status by the Crown. A church dedicated to St. Mary was built in the market place, and other medieval institutions included a Franciscan friary, an almshouse for men and another for women, which both survive, and an important religious and social guild. On the eve of the guild's suppression at the Reformation much



of its land was conveyed in trust for the maintenance of the city's medieval water supply and for other needs. As a result Lichfield has for centuries enjoyed private-enterprise public services, and the Conduit Land Trust is still active.

In the 18<sup>th</sup> century Lichfield was a centre for polite society with its races at Whittington Heath attracting many visitors. In the 19<sup>th</sup> century there was industrial development, notably in the brewing industry. A MOD Barracks was developed at Whittington which is still in operation today. The later 20<sup>th</sup> century has seen the growth of light industry and also extensive residential development, with a nearly threefold increase in industry and also extensive residential development, with a nearly threefold increase in the city's population. An Anglo- American Airbase was situated at nearby Fradley from World War II until the 1950's. Tourism too has been encouraged and is associated particularly with Samuel Johnson, born in the city in 1709.

The District also contains several former townships lying outside the city but once part of the Lichfield parishes of St Michael and St Chad. They include Wall and its Roman-British remains, Fisherwick which once possessed a mansion and park by Capability Brown, and the urban parish of Burntwood containing the former mining villages of Chasetown and Chase Terrace; the others include Curborough and Elmhurst, Freeford, Hammerwich, and Streethay with Fulfen.

#### **4.4 Size**

Lichfield District covers an area 331 square kilometres of 128 square miles and comprises 25 parishes.

#### **4.5 Population Distribution**

The population of Lichfield district is 100,654. More than 60% of the inhabitants of the District live in the two centres of Burntwood and Lichfield.

#### **4.6 Current and Past Industrial History**

The principal industry of the District in terms of land use is agriculture with the population of the District concentrated in four principal locations which have developed localised manufacturing operations. This is reflected in the current location of the fifteen industrial sites within the district.

In addition to these areas mineral extraction in the form of sand and gravel workings are associated with the River Trent and Tame valleys and Triassic Pebble Beds in the south of the District at Hopwas, Hints, south of Weeford and Shire Oak.

#### **4.7 Roads, Canals and Railways**

The Trent and Tame have never been navigable for commercial purposes and this contributed to the relative isolation of Staffordshire as a whole until at

least the eighteenth century. The industrial development of the District was closely linked with the improvement of its system of communications.

The most important of the medieval routes through the District was that from London to Chester, the port for Ireland at that time. The road entered the District at Bassett's Pole, and ran through Lichfield and Rugeley to cross the Trent at Wolseley Bridge (the present day A51). In 1729 this section of road was turnpiked (tolls raised for maintenance) along with the Lichfield-Burton road (the present day A38).

Although an inland county with no navigable rivers Staffordshire became the centre of the English canal system in the eighteenth century. Four canals were constructed through Lichfield District at this time: the Trent and Mersey Canal (1777); the Coventry Canal (1790); the Birmingham and Fazeley Canal (1790); and the Wyrley and Essington Canal (1797). That part of the Wyrley and Essington Canal within the District closed in 1954 and was subsequently filled in. Some sections of this canal are now in the process of restoration. The other canals remain in use.

The nineteenth century saw the development of the railway systems through the District. The first of these was a line from Birmingham to Tamworth, Burton and Derby completed in 1842. A more direct route from London to the North was provided by the Trent Valley Railway, opened in 1847 from Stafford via Lichfield and Tamworth to Rugby. The line from Walsall to Lichfield opened in 1849.

The Cannock Chase coalfield was penetrated in 1858 by a line running from Walsall to Cannock, which continued to the London line at Rugeley in 1859.

The Birmingham-Lichfield City line opened in 1884.

#### **4.8 Burntwood**

The whole township lay within the part of Cannock Forest which became Cannock Chase in the thirteenth century.

With the development of coalmining in the 1850's and the enclosure of heathland in 1861 the landscape was transformed.

The development of the Cannock Chase field began in 1849 when the Marquess of Anglesey sank the Marquess Pit on the border between Hammerwich and Burntwood. The Anglesey Branch Canal was cut in 1850 to link the pit with the Wyrley and Essington Canal.

In total five pits were sunk over the period 1849 to 1861 with the new mining villages of Chasetown and Chase Terrace appearing respectively in the 1850's and 1860's. The last pit was closed in 1959 and industrial estates now occupy the mining sites.

Other industries in the Burntwood area in the eighteenth and nineteenth centuries comprised nailing and brickmaking. A gasworks was built south of Queen Street, Chasetown in 1870 by the Chasetown Gas Company Ltd and remained in use until around 1952.

Between 1961 and 1971 the population of Burntwood nearly doubled with the development of both Council and privately built housing to accommodate people from Birmingham and the Black Country.

#### **4.9 Lichfield**

Between 1801 and 1901 Lichfield's population rose from just under 5000 to nearly 8000. The overall growth was reflected in suburban expansion and in the increasing scale of local government, public services and economic activity.

In the Greenhill area a cattle market had been established in early 1800's with the building of a Smithfield market in the 1870's. Market gardening was Lichfield's major industry in the first half of the nineteenth century.

Industrial development began with the expansion of cloth working when a fulling mill was built at Leamonsley in the early 1790's and Pones mill was converted into a woollen manufacturing in 1809. Both were still in operation in the 1850's. Less successful was the cotton manufacturing established in Lower Sandford Street by Sir Robert Peel in 1802, which closed by 1813. An established tanning industry had apparently disappeared by the 1840's (the City's role as a trading centre flourished in the fourteenth century with several fairs and a reputation for leather goods; notably shoes and saddles).

In 1835 a gas works opened in Queen Street. There was also some expansion in metal working in the early part of the nineteenth century, with works producing agricultural machinery and cutlery in Sandford Street. Foundries were opened in Wade Street, Sandford Street and Beacon Street in 1864, 1879 and 1890 respectively.

The most striking industrial development was brewing. From the late eighteenth century maltsters, rather than individual innkeepers, dominated the industry. In the later nineteenth century they in turn were replaced by brewing companies. There were five breweries in Lichfield in the late 1870's.

The growth of manufacturing firms was allegedly hampered by the development of market gardening from the early nineteenth century, with its emphasis on seasonal labour. In the late 1840's there were approximately 1,300 acres of market gardens in the city, nearly two fifths of its total acreage. The produce was sold in the towns of South Staffordshire and in Birmingham.

In the twentieth century Lichfield has developed as a residential area with extensive light industry and a growing emphasis on tourism.

#### **4.10 Other Areas**

In addition to Burntwood, coal workings also existed in Armitage and Fazeley. The two other areas of industrial development in the eighteenth and nineteenth centuries relate to the cotton mill at Fazeley, opened in 1795 by Robert Peel (father of the statesman), and the Armitage Shanks works in Armitage.

#### **4.11 Geological Characteristics**

The present surface expression and land use of the District is in part a response to rock type, and as such, some aspects of geological and structural history are relevant.

The geology of the District can be categorised into three main rock types: the Triassic Mercia Mudstones, the Triassic Sherwood Sandstones and the Carboniferous Coal Measures.

The oldest rocks exposed at the surface in the District are of Carboniferous Age. The Coal Measures originally formed a thick continuous sheet of strata covering much of central England. This sheet was folded and faulted by earth-movements, dissected by erosion and then buried deeply below Triassic sediments. Subsequent erosion has removed much of the Triassic cover, and parts of the folded and faulted sheet have now become the detached coalfields of the region. The coalfields of relevance to the District are South Staffordshire and Warwickshire.

The Warwickshire Coalfield is roughly oval in outline, and extends southwards from Tamworth to Warwick. It occurs immediately east of the District roughly delineated by the River Anker to the north of Tamworth and the River Tame south of the Anker. Much of the coalfield is bounded by faults.

The South Staffordshire Coalfield extends for some 40km between Rugeley in the north and the Lickey Hills in the south, and is bounded to the east and west by faults which are nearly 16km apart in the central area. The Eastern Boundary Fault runs along the District's western boundary from approximately Brereton Hill, south through Cannock Wood to Chase Terrace and Chasetown. Chasewater is underlain by Coal Measures strata.

The geological conditions have been assessed from the following British Geological Survey maps: 1:63,360 Solid and 1:63,360 Solid and Drift map Sheet 154 Lichfield; and 1:50,000 Solid and Drift maps Sheet 140 Burton-upon-Trent and Sheet 155 Coalville.

A summary of the geological sequence is shown in Table 1 below; with the youngest Age (Holocene) at the top.

**Table 1. Geological Sequence of the District**

Period	Age	Geological Unit	Characteristics
Quaternary	Holocene	Alluvium River Terrace Deposits Glacial Sand and Gravel Glacial Till	Soft clays, sand, silt and peat. Sand and gravel, locally clayey Sand and gravel, locally clayey Stiff, pebbly, sandy clay
Mesozoic	Triassic	Mercia Mudstone Group (Keuper Marl) Bromsgrove Sandstone Formation (Keuper Sandstone) Cannock Chase Formation (Pebble Beds) Hopwas Breccia	Red mudstone with sandy bands  Pink and red sandstones with mudstone bands  Red brown sandstones with conglomerate layers Soft sandstone with subangular pebbles
Palaeozoic	Carboniferous	Keele Formation  Halesowen Formation Etruria Marl Formation Productive Coal Measures	Red mudstones, siltstones and sandstones Red and grey sandstones Purple mudstones Mudstones, sandstones and coal

Outliers of Carboniferous strata occur at the surface within the District in a line from Hopwas south west to Hints and Canwell with the eastern margin defined by the Birmingham Fault. To the west of this line Hopwas Breccia outcrops. A second Carboniferous outlier outcrops as a thin band from Little Aston on the District's southern boundary to Lower Stonnall and Lynn some 5km to the north west.

The division between the Triassic Sandstones and Mudstones within the District is, very broadly speaking, delineated by the line of the Trent Valley Railway. North of this line, together with the area in the east of the District between the Birmingham Fault and the River Tame, Mercia Mudstone outcrops. South of this line and west of the Birmingham Fault the Bromsgrove Sandstone and Cannock Chase Formations of the Sherwood Sandstone Group outcrop.

Most of the hilltop areas are capped by glacial till but erosion has commonly laid bare the underlying solid rocks on the valley sides. Glacial sands and gravels represent outwash aggradation deposits formed during the retreat of the glaciers.

River Terrace Deposits are associated with the Trent and Tame valleys. In the valley of the Tame, a southern tributary of the Trent, there are at least two terraces and along the Trent itself, up to four terraces are usually recognised. The sands and gravels were probably laid down under cold, periglacial conditions, the area lying beyond the ice front of the last, Devension Glaciation.

Post-Glacial deposits of Alluvium, deposited within the last 10,000 years, are primarily associated with the valleys of the Tame and Trent.

#### **4.12 Key Water Resource/Protection Issues**

The Environment Agency routinely obtains chemical and biological data through its monitoring programs. Periodic assessment is now made by applying the General Quality Assessment (GQA) scheme, which provides a general measure of water quality and allows national comparisons.

The majority of the rivers are Grade D - fair or better (suitable for coarse fish populations).

The River Blithe is the only public water supply river in the District. There are no major sewage works discharges to the river. The river is impounded in Blithfield Reservoir from where it is used for public water supplies by South Staffordshire Water plc. Water is also abstracted from the river at Nethertown close to its confluence with the River Trent with the abstracted water being pumped back into the reservoir.

The canals receive few direct discharges and the main water quality problem is related to algae growth.

The Triassic sandstones beneath the District are a significant groundwater resource. They are exploited via boreholes, mainly for public water supply. Groundwater is taken from less than fifteen public water supply abstractions. It is also used to supply a number of industrial activities. The majority of groundwater licences, however, authorise a large number of very small abstractions for domestic or agricultural use.

Source Protection Zones (SPZ's) are associated with major abstractions and cover large areas of Lichfield District. These Environment Agency determined zones are split into Inner Zone, Outer Zone, and Total Catchment (based on travel time of water in the aquifer) and are designated to reduce contamination risks to abstractions by restricted or prohibiting certain activities within them.

The District council regularly inspects the quality of 26 private drinking water supplies in its area (9 for human consumption, the rest for irrigation).

There are three Groundwater Units identified by the Environment Agency within the District, the Lichfield, Shenstone and Rugeley Units. No new licence applications can be considered in the Lichfield and Shenstone Units due to overlicensing and overabstraction. Borehole yields and groundwater quality are variable in the Rugeley Unit.

The EC Nitrates Directive concerns the protection of waters against pollution caused by nitrates from agricultural sources along with placing restrictions on fertiliser use. The aquifer underlying Lichfield has been designated a Nitrate Vulnerable Zone. Legislation aims to reduce agricultural nitrate pollution by restricting the amount of nitrate fertilisers and organic manure that may be applied to agricultural land.

### 4.13 Hydrogeology

The hydrogeological conditions of the District have been assessed from the Environment Agency Groundwater Vulnerability Maps of the area (Sheets 22 and 23, 1:100,000 scale), and the Environment Agency Policy and Practice for the Protection of Groundwater: Midlands Region. A summary of the hydrogeological features of the strata within the District is shown below in table 2.

**Table 2 Hydrogeological Features of the District**

<b>Strata Type</b>	<b>Hydrogeological Characteristics</b>	<b>Flow Mechanism</b>	<b>Geological Classification</b>
Alluvium	Floors the main valleys	Intergranular	Minor Aquifer
River Terrace Gravels	Occurs sporadically in the rivers valleys, but notably in the Trent and Tame where they average 6 to 7m thick. Resources can be locally important, in hydraulic continuity with watercourses	Intergranular	Minor Aquifer
Glacial Sands and Gravels	Occurs as masses within and above Glacial Till	Intergranular	Minor Aquifer
Glacial Till	Yellow to grey clay with pebbles, averages 6m, locally thicker. Can yield small supplies from interbedded sands. Limits infiltration into underlying aquifers.	Varied	Minor Aquifer
Mercia Mudstone Group	Low permeability, limited resources in fractured mudstone/sandstone	Fracture in permeable beds	Non-Aquifer
Sherwood Sandstone Group including Hopwas Breccia	Major water supply, high permeabilities and high yields. Unconfined in the central southern part of the District.	Intergranular/ Fracture	Major Aquifer
Carboniferous Coal Measures	Sandstone layers act as separate aquifers, can support locally important supplies.	Fracture/ Intergranular	Minor Aquifer

As can be seen from the table the major geological strata within the District exhibit a variable ability to store and transmit groundwater. The Triassic sandstones form the District's principal aquifer, a resource widely exploited via boreholes mainly for public water supply but also for numerous agricultural spray irrigation licences.

Baseflow to the rivers is maintained by seepages from surrounding strata outcrops and by the widespread sand and gravel deposits associated with the rivers across the District.

The groundwater vulnerability maps for the District shows the central southern part of the District underlain by Triassic sandstones to be a major aquifer with soils of high leaching potential (i.e. soils with little ability to attenuate diffuse source pollutants and in which non-absorbed diffuse source pollutants and liquid discharges have the potential to move rapidly to underlying strata or to shallow groundwater).

#### **4.14 Hydrology**

Located within the Upper Trent Area of the Environment Agency Midlands Region, the District is characterised by a north easterly flowing surface water drainage system. This combines on the District's northern boundary to the east of Alrewas where the Rivers Tame and Mease join the Trent.

The Trent and Mersey, Coventry and Birmingham and Fazeley Canals also provide surface water connections within the District.

#### **4.15 Natural Contamination**

Three areas have been reviewed from existing information published by the British Geological Survey (BGS) and in the Soil Geochemical Atlas of England and Wales. There are:

- radon and background radioactivity from natural sources;
- methane, carbon dioxide and oil seeps from natural sources and mining areas;
- potentially harmful elements from natural sources and mining areas.

##### **4.15.1 Radon**

BGS information at 1:625,000 scale indicates that based on their classification of the underlying rocks, the District falls within the low, low to moderate and moderate Radon Potential Classes. This reflects the geology – the Coal Measures strata falling within the Moderate Class, the Triassic mudstone the Low to Moderate Class and Triassic sandstone the Low Class. For the Triassic deposits less than 1% of dwellings are estimated to be exceeding the 200 Bqm<sup>3</sup> Action Level and for the Coal Measures strata 1 to 3% of dwellings.

In 1996 the National Radiological Protection Board published formal advice to the Government on radon affected areas in England. On a 5km square grid basis the average for Staffordshire is approximately 41Bqm<sup>3</sup> with less than 1% of homes above the Action level.

##### **4.15.2 Methane, Carbon Dioxide and Oil Susceptibility**

BGS information at 1:625,000 scale indicates that where the Coal Measures strata outcrop there is a moderate susceptibility to methane and carbon



dioxide emissions and/or oil seeps at the surface and underground derived from the solid strata. For the vast majority of the District however, where the solid geology comprises Triassic sediments an intermediate category is defined where gas and/or oil may be encountered in boreholes, mines or tunnels intersecting buried (concealed) Carboniferous strata. The approximate depth to the top of the Carboniferous strata beneath the Triassic sediments in the District is broadly indicated at approximately Om Ordnance Datum in the southern part of the District south of Lichfield (i.e some 100m below ground level), increasing to between –200m and –400m Ordnance Datum towards the northern boundary of the District.

#### 4.16 Soil Geochemistry

A study in the early 1980's based on less than 2mm fraction of soils and taken from a depth of 0 to 0.15m below ground level, sampled the non-urban landscape on a 5km grid across the country (i.e. one sample every 25km<sup>2</sup>)

Within the District this indicated low concentrations of heavy metals in the soil: cadmium less than 1mg/kg, (locally 1 to 2 mg/kg); chromium less than 150mg/kg; copper less than 50mg/kg (locally 50-100mg/kg); lead less than 150mg/kg; nickel less than 30mg/kg; and zinc less than 150mg/kg (locally 150 to 300mg/kg).

In 1995 the BGS produced maps at a scale of 1:625,000 entitled 'Distribution of Areas with above the National Average Background Concentrations of Potentially Harmful elements (As, Cd, Cu, Pb and Zn). This was based on stream sediment data on either one sample per 1.6km<sup>2</sup> (BGS data) or one sample per 2.5km<sup>2</sup> (Wolfson Data). A computer procedure then classified the country in 1km grid squares based on the highest level recorded for any grid square. The Wolfson Data, which covers the District, indicated the following ranges for classification of gridded stream sediment geochemical data (mg/kg):

**Table 3: Classification of Stream Sediment Geochemical Data**

Element	Data Set	National Average Background (Bk)	Bk-<2Bk	2Bk-<4Bk	>4Bk
Arsenic	Wolfson	<40	40-80	80-190	>190
Cadmium	Wolfson	<2.5	2.5-7	7-14	>14
Copper	Wolfson	<95	95-190	190-380	>380
Lead	Wolfson	<60	60-165	165-370	>370
Zinc	Wolfson	<215	215-380	380-810	>810

In general it was concluded that the areas of more than 4 times the upper limit of the background value are likely to contain soil concentrations that would require further investigation on the basis of currently accepted guideline concentrations.

The plots, however, are generalised multi element maps which must not be relied upon as a source of detailed information about specific areas or as a substitute for appropriate assessment. Above background concentrations are

intended as a prompt to consider whether further site specific information is required for the particular purpose. The maps merely indicate those areas where above background levels may be expected in soils and surface waters as well as stream sediments, they are not a guide to absolute concentrations in soil or water as influenced by a number of factors.

Within the District seven 1 kilometre squares are indicated as more than four times the upper limit of the background level of at least one of arsenic, cadmium, copper, lead, and zinc. These were Ordnance Survey Grid Squares SK1103 (Shenstone Park); SK 1116, 1117, 1216, 1217, 1316 and 1317 (all around King's Bromley). The stream sediment sample from the Shenstone Park square probably relates to a tributary of Black Brook, whilst those around King's Bromley probably relate to the River Trent and former sand and gravel extraction pits to be the north and west of King's Bromley and Bourne Brook plus a tributary to the south.

#### **4.17 Protected Locations**

Lichfield District contains 5 sites of Special Scientific Interest (SSSI's). These sites are the best example of national natural heritage of wildlife habitats, geological features and landforms.

The majority of the SSSI's are located in the west of the District. The largest area is Gentleshaw Common, with four others comprising Chasewater Heaths.

The River Mease has been submitted to Europe and is, therefore, a candidate Special Area of Conservation (SAC). There are European Protected Species present within Lichfield District, for example, great crested newts, otter and bats. The District also contains almost 100 Sites of Biological Interest (SBIs). A wider nature conservation interest of the district is shown on English Nature's Natural Area Profile. The relevant Natural Areas are Midlands Plateau, Trent Valley and Rises, and the Needwood and South Derbyshire Claylands.

### **5. Strategic Inspection**

#### **5.1 Statutory Guidance**

The Statutory Guidance suggests that the Council should take a strategic approach to carrying out its inspection duty under sections 78B(1). This approach should be rational, ordered and efficient and it should be reflect local circumstances.

The methodology for carrying out a strategic inspection of potentially contaminated land can be summarised thus:

1. Data Collection
2. Data processing (initial prioritisation).
3. Desk Studies
4. Secondary prioritisation.

It should be noted that the Council will start with the assumption that the land is not contaminated unless there is reason to consider otherwise.

## 5.2 Data Collection

In order to carry out a strategic inspection of the District, it is first necessary to obtain as much relevant information as possible to identify potentially contaminated sites.

As outlined in Section 1.3.1, in order for land to be contaminated the following must be present:

- A source (of contamination).
- A receptor (or something affected by contamination).
- A pathway (a way for the source to affect the receptor).

A map-based land categorisation and prioritisation method using a receptor source – proximity relative risk model has been developed at the strategy stage to enable the identification of minimum information requirements. These requirements are:

- i) Current land use plans
- ii) Locations of current and former landfills and other areas of filled ground
- iii) Locations of groundwater abstraction wells, both public and private
- iv) Current surface water classification under the Environment Agency's General Quality Assessment Chemical Grading for Rivers and Canals Scheme and the river ecosystem classification under the Surface Waters (River Ecosystem Classification) Regulations 1994.
- v) Location of statutory and non-statutory sites of ecological importance
- vi) Potential sources of contamination based on the industries listed in the DOE Industry Profiles.
- vii) The current and historical locations of these industries based on current and historical Ordnance Survey maps.
- viii) Environmental information held by Environmental Health and aerial photos etc.

The Council's first priority in dealing with contaminated land is to protect human health. Given that the limited industrial development in the District is also focused in the main centres of population the urban areas are at the highest risk of having all three elements of a pollutant linkage (source, pathway, receptor) which could cause significant harm to human health.

During the initial prioritisation once sufficient data was been obtained, it was processed in order to screen the District for potentially contaminated sites. The screening process involved identifying intersects between areas with potential sources and areas with potential receptors, to obtain a base list of potentially contaminated sites.

Further data processing is required in order to refine this list and obtain a basic prioritisation. Such processing takes into account:

- The potential contamination source
  - How likely contaminants are to have been used at the site
  - How likely contaminants are to have escaped or migrated from containment or storage on the site
  - How toxic or hazardous those contaminants might be
- The receptor sensitivity
  - Inherently, some receptors are considered to be more sensitive than others. We will only be considering the human health receptors of contaminated land.
  - We will also consider how many receptors are likely to be affected by the source, e.g. the number of households on the indicative extent of the site.

Following the data processing, a prioritised list of potentially contaminated sites was developed. A number of sites, which pose with the highest risk, that have been selected for more detailed consideration.

The Council has used the list of potentially contaminated sites to identify land which it considers to pose the greatest risk to human health or the environment, by carrying out a manual prioritisation (the secondary prioritisation).

The secondary prioritisation will be carried out by the Environmental Health and will allow for full consideration of all available information on each potentially contaminated site. The sites which appear to be the most likely to pose the greatest risk will be places at the top of the list and will be addressed first when undertaking detailed inspections.

Environmental Health continue to review the district and assess new information e.g. allotments.

### **5.3 Powers of Entry**

Under Section 108 of the Environment Act 1995, the Council, or and authorised agent of the Council (which would include the Environment Agency), may exercise the following powers of entry when undertaking an investigation:

- a. Entry of premises;
- b. Entry with other authorised persons and with equipment or materials;
- c. Examination and Investigation;
- d. Direction that premises be left undisturbed;
- e. Taking measurements, photographs and recordings;
- f. Taking samples of air, water and land;

- g. Subjecting articles or substances suspected of being polluting to tests;
- h. Taking possession of and detaining such articles;
- i. Requiring persons to answer questions;
- j. Requiring production of records or the furnishing of extracts from computerised records;
- k. Requiring necessary facilities or assistance to be afforded; and
- l. Any other power conferred by the Regulations.

In the case of a desk study, therefore, the Council has the power to obtain information on potentially contaminated land, both from relevant persons (e.g. the owner of the land, or a person who might be liable for contamination) and their agents (for instance, environmental consultants who carried out work for a site). The Council also has the power to request site access in order to undertake a site walkover inspection and, and in the case of detailed inspection, to undertake intrusive site investigation works.

Before excising powers of entry, the Council will always see to obtain cooperation from the landowner or other relevant parties on a voluntary basis, in line with the Statutory Guidance.

## **6. DETAILED INSPECTION**

### **6.1 Obtaining Further Information**

Following the secondary prioritisation, the Council must determine whether there is a reasonable possibility that a significant contaminant linkage exists.

The process of obtaining additional information will continue until there is sufficient evidence for the Council to determine whether the land is contaminated or not.

If, at any stage, the Council considers that there is no longer a reasonable possibility that a significant contaminant linkage exists, the Council will not carry out any further inspection in relation to that linkage.

### **6.2 Request for Further Information from Relevant Parties**

The Council may, or may not, already have contacted relevant parties to request specific information that they hold on the site.

Before considering detailed inspections, the Council will contact relevant persons (if possible) to request that information on the site (as outlined in Section 5.5) where this has not already been done. If necessary, this will be by the issue of a notice to request information.

## **6.3 Intrusive Site Investigation**

### **6.3.1 General Approach**

Where evaluation of all available data suggest that there is a reasonable possibility that as significant contaminant linkage may exist, it may be necessary to visit the site and carry out some form of on-site testing, or take away samples for analysis. In every case this will be carried out by a 'suitable person', adequately qualified to undertake the work. Inspections will be conducted as quickly, discreetly, and with as little disruption, as reasonably possible.

The Council will seek to consult the landowner and residents before inspecting their land, unless there is a particular reason why this is not possible (for instance, because it is not possible to identify or contact the landowner).

Should the owner refuse access, or cannot be found, the Council will consider using powers of access as outline in Section 5.3.

### **6.3.2 Voluntary Provision of Information**

If a reasonable possibility of a contaminant linkage exists on a site, then the Council will consider undertaking an intrusive site inspection of the land in order to obtain sufficient information to determine whether it is contaminated land or not.

However, if a relevant person were to offer to provide such information within a reasonable and specified time, and does so, then the Council would not proceed with its own investigation.

### **6.3.3 Potential Special Sites**

In the case of potential special sites (as set out in the Contaminated Land (England) Regulations 2006), the Council will liaise with the EA.

### **6.3.4 Council Inspection of Land**

Intrusive investigations will be carried out by the Council in accordance with appropriate good practice technical procedures for such investigations.

Should it be necessary, the Council will employ a consultant or contractor to undertake appropriate site investigation works and prepare the report. The Council will ensure, as far as possible, that any consultants are appropriately qualified and competent to undertake the work.

## **7.0 RISK ASSESSMENT**

### **7.1 Grounds for Determination**

There are six possible grounds for determining land to be contaminated:

- Significant harm is being caused
- There is a significant possibility of significant harm being caused.
- Significant pollution of controlled waters is being caused.
- There is a significant possibility of significant pollution of controlled waters.

With respect to harm from radioactivity:

- Harm may be caused
- There is a significant possibility that harm may be caused.

In making any determination the Council will take all relevant information into account, carry out appropriate scientific assessments, and act in accordance with statutory guidance. The determination will identify all three elements of the contaminated land linkage and explain their significance.

### **7.2 Evaluation of Risk**

#### **7.2.1 Current Use**

Under the Part 2A, risks are evaluated in the context of the current use of the land. In this case, the current use is determined as;

- The current use of the land.
- Reasonably likely future use of the land which would not require planning permission.
- Any temporary use to which the land is put, or likely to be put, within the bounds of the current planning permission.
- Likely informal use of the land, whether authorised by the owners or the occupiers, or not.

When considering risks from future use of a site which fall under the definition of current use, it will be assumed that any developer which is subject to a planning permission will be fully carried out (including any conditions), although issues of potential land contamination would ordinarily be addressed in such circumstances through the planning system.

#### **7.2.2 Contaminant Linkage**

For there to be a risk, an appropriate contaminant linkage must exist (as outlined in Figure 1).

- A 'contaminant' is a substance which is on, on or under the land and which has a potential to cause significant harm to receptor, or to significant pollution to controlled waters.
- A 'receptor' is something that could be adversely affected by a contaminant- namely, a person, an ecosystem, property, or controlled waters (as defined in Table 2).

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

A contaminant linkage is the relationship between a contaminant, a pathway and a receptor. All three elements of a contaminant linkage must exist in relation to a particular site before it can be considered to be a contaminated land under Part 2A, including evidence of the actual presence of contaminants.

The Council may encounter sites with multiple contaminant linkages, from a number of different contaminants, pathways and receptors. In such cases, the Council may treat contaminants with similar properties as a single contaminant source, provided that there is a scientifically robust reason for doing so; the Council will fully document the reasons for adopting this approach where appropriate.

### **7.2.3 Risk Assessment**

The process of risk assessment involves understanding the risks posed by land and associated uncertainties.

As more information is obtained on a site (in the case of this Strategy, from identification of land as potentially contaminated in the preliminary prioritisation, to the collection of all available information in a desk study and finally the collection of site specific data in a site investigation), the understanding of the risks posed by a site increase and uncertainties decrease.

The collection of information on a site increases until it is possible for the Council to decide:

- That there is insufficient evidence of contamination to justify further investigation into the site; and or
- Whether or not the land is contaminated land.

In order to continue to justify obtaining more information on a site, the Council must be satisfied that an unacceptable risk could reasonably exist.

### **7.2.4 Normal Presence of Contaminants**

It is possible that, in some circumstances, some substances might be present in what would otherwise be considered 'elevated' concentrations due to natural circumstances, for instance:

- The natural presence of contaminants from the underlying geology that might reasonably be considered typical of area and have not been shown to pose an unacceptable risk to health or the environment.
- The presence of contaminants from low level diffuse pollution and common human activity (for example, from historic use of leaded petrol and the spreading of ash from domestic coal fires in gardens and allotments that might have been considered typical).



In these circumstances, the Council will not usually consider the land to be contaminated, unless there is a particular reason to consider that those contaminated might pose a significant risk.

## **7.2.5 Risk Assessment Methodology**

There are a number of different methodologies for assessing risks from different contaminants to different receptors. Current methodologies which would typically be used by the Council are outlined below, although their use would depend on their specific relevance to the site being investigated, as well as any updates or revisions to official technical guidance. The use of alternative risk assessment methodologies will be considered if there are justifiable benefits from doing so.

### **7.2.5.1 Human Health**

The Council will seek to apply the methodology outlined in the Contaminated Land Exposure Assessment (CLEA) model<sup>18</sup> (18 EA, Updated Technical Background CLEA model- Science report-Science Report SC050021/SR3, 2009) when assessing the risks from potential contaminants to human health.

The Council may rely on the use of soil guideline values (SGV), published by the EA and developed with CLEA model, as a screening tool to identify land that does not pose a significant risk to human health. Where an SGV has not been developed, generic assessment criteria<sup>19</sup> (19 Land Quality Management (LQM) and CIEH, The LQM/CIEH Generic Assessment Criteria for Human Health Risk Assessment (2<sup>nd</sup> edition), 2009)<sup>20</sup> (20 Contaminated Land; Applications in Real Environments (CL:AIRE), Soil Generic Assessment Criteria for a Human Health Risk Assessment, 2010) (GAC), which have been developed using the CLEA model, may be used instead. In either case, the use of the SGV or GAC will only be considered where the assumptions used to generate the SGV or GAC are appropriate to the specifics of the site under investigation.

When considering risks from ground gas, the Council would consider guidance offered in BS8485:2007<sup>21</sup> (21 BSi, BS8485:2007 Code of practice for the Characterisation and Remediation from Ground Gas in Affected Developments) and CIRIA C665<sup>22</sup> (22 CIRIA, CIRIA C665 Assessing Risks Posed by Hazardous Ground Gases to Buildings, 2007) when characterising a site and identifying remediation.

### **7.2.5.2 Human Health- Radioactivity**

The risk assessment of potential radioactive contaminated land will be undertaken using the methodology outlined in the Radioactive Contaminated Land Exposure Assessment Model<sup>23</sup> (23 EA, Using RCLEA- the Radioactivity Contaminated Land Exposure Assessment Methodology, 2011). (RCLEA).

### 7.2.5.3 Groundwater

Risk assessment for groundwater will be undertaken using the EA Remedial Targets Methodology<sup>24</sup> (<sup>24</sup> EA, Remedial Targets Methodology-Hydrogeological Risk Assessment for Land Contamination, 2006).

### 7.2.5.4 Ecology

When considering risks to ecological systems, the Council would seek to follow the Ecological Risk Assessment<sup>25</sup> (<sup>25</sup> EA, An Ecological Risk Assessment Framework for Contaminants in Soil, 2008) (ERA) methodology set out by the EA.

### 7.2.6 Categorisation of Risk

Following each phase of risk assessment, land can be placed into one of four categories for human health or controlled water, as outlined in table 4.

Category	Human Health	Controlled Water
1	A significant possibility of significant harm exists in any case where the Council considers there is an unacceptably high probability, supported by robust science based evidence that significant harm would occur if no action is taken to stop it.	There is a strong and compelling case for considering that a significant possibility of significant pollution of controlled waters exists.
2	There is a strong case for considering that the risks from the land are of sufficient concern, that the land poses a significant possibility of significant harm; on the basis of the available evidence, including expert opinion, there is a strong case for taking action under Part 2A on a precautionary basis.	The strength of evidence to put the land into Category 1 does not exist; but nonetheless, on the basis of the available scientific evidence and expert opinion, considers that the risks posed by the land are of sufficient concern that the land should be considered to pose a significant possibility of significant pollution of controlled waters on a precautionary basis.
3	The strong case described above does not exist, and therefore the legal test for significant possibility of significant harm is not met.	The risks are such that the tests set out above are not met, and therefore regulatory intervention under Part 2A is not warranted.
4	There is no risk or the level of risk posed is low.	There is no risk, or the level of risk posed is low.

Table 1 – Risk Categorisation for Human Health and Controlled Water

In the case of the radioactive contamination of land, the possibility of harm is a measure of the probability, or frequency, of the occurrence of circumstances which would lead to lasting exposure being caused where:

- a. The potential annual effective dose is below or equal to 50 milliseverts (mSv) per annum; and
- b. The potential annual equivalent dose to the lens of the eye and to the skin is below or equal to 15 mSv and 50 mSv respectively.

The Council will regard the possibility of harm as significant if, having regard to uncertainties, the potential annual effective dose from any lasting exposure multiplied by the probability of the dose being received is greater than 3mSv.

Risk assessments for ecological systems and property are not categorised in the same way as above, but instead are considered as outlined in Table 5 and Table 6.

Significant Harm	Significant Possibility of Significant Harm
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.	Significant harm of that description is more likely than not to result from the contaminant linkage in question.
Harm which significantly 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.	There is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration.
In the case of European sites, harm which endangers the favourable conservation status of natural habitats at such locations or species typically found there.	

Table 2 – Risk Categorisation for Ecological Systems

	Significant Harm	Significant Possibility of Significant Harm
Crops, Produce, Livestock, Domestic Animals and Game	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. Significant harm would be considered when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose.</p> <p>Food will be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990.</p> <p>Where a diminution in yield or loss in value is caused by a contaminant linkage, a diminution or loss of over 20% will be regarded a substantial diminution or loss.</p> <p>For domestic pets, death, serious disease or serious physical damage.</p> <p>For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p>	<p>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the Council considers that significant harm is more likely than not to result from the contaminant linkage in question, taking into account relevant information for that type of contaminant linkage, particularly in relation to the ecotoxicological effects of the contaminant.</p>
Property	<p>Structural failure, substantial damage or substantial interference with any right of occupation.</p> <p>Substantial damage or substantial interference as occurs when any part of the building ceases to be capable of being used for the purpose for which it is or was intended.</p> <p>In the case of a scheduled Ancient Monument, substantial damage will also 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>Conditions would exist for considering that a significant possibility of significant harm exists to the relevant types of receptor where the Council considers that significant harm is more likely than not to result from the contaminant 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 contaminant linkage.</p>

Table 3 – Risk Categorisation for Property

## **8. DETERMINATION OF CONTAMINATED LAND**

### **8.1 PRE- DETERMINATION**

#### **8.1.1 Notification of Decisions- Not Contaminated Land**

Where the Council inspects land and determines that it is not contaminated land, the Council will prepare a written statement confirming that it does not consider the land to be contaminated land.

The Council will maintain records including the reasons for deciding that land is not contaminated land.

The Council will also provide a copy of the written statement to the owners of the land; the Council will consider providing the same to other interested parties as appropriate and with due regard to the Council's legal obligations under the Freedom of Information Act 2000 and The Environmental Information Regulations 2004.

#### **8.1.2 Notification of Decisions- Contaminated Land**

Where the Council considers that land meets the definition of contaminated land, the Council will inform the owners and the occupiers of the land, as well as any other person who may be liable to pay for remediation, of the Council's intention to determine the land as contaminated land, unless there is an overriding reason not to do so.

#### **8.1.3 Risk Summary**

In accordance with the statutory guidance, the Council will produce a risk summary for any land where the Council considers it likely that the land may be determined as contaminated.

The risk summary will explain how the Council understands the risks and other factors which are relevant in a way that is understandable to non-experts; this will be prepared before a determination is made.

The risk summary will include:

- A summary of the Council's understanding of risk, including a description of:
  - The contaminants involved.
  - The identified contaminant linkages or a summary of the linkages.
  - The potential impacts.
  - The estimated possibility that impacts may occur.
  - The timescale over which risks may become manifest.

A description of how the Council understands the uncertainties behind the risk.

- A description of the risks put in context.
- A description of the Council's initial views on possible remediation. This will include:
  - What remediation might entail
  - How long remediation might take
  - The likely effects of remediation works on local people and businesses.
  - How much difference it might be expected to make to the risks posed by the contaminated land.
  - The Council's initial assessment of whether remediation would be likely to produce a net benefit.

#### **8.1.4 Physical Extent of Land to Be Determined**

The Council will identify the area of land that it is considering determining as contaminated land, based on the available information regarding historic land use boundaries and information from the site investigations.

Large areas of contaminated land may be sub-divided into smaller plots, with separate determinations for each area, where appropriate. For instance, divisions may be based on the nature of the contaminated linkages which have been identified, historic and current land ownership, liability and the nature of any remediation which may be required.

#### **8.1.5 Voluntary Remediation**

The Council may decide not to determine that land is contaminated, if there is an offer to deal with the contamination on a voluntary basis, although such a decision would be taken on a case by case basis, and would involve consideration of a number of factors including (but not limited to):

- The proposed timescales.
- The technical acceptability of the proposal.
- The proposed remediation standards.

### **8.2 Determination**

If, following pre-determination consultation, there are no valid reasons to delay determination, the Council will formally determine land as contaminated land.

#### **8.2.1 Public Register**

The Council maintains a public register of contaminated land, as prescribed by Section 78R of the Act.

Information on the public register may be available online through the Council website [http://www.lichfielddc.gov.uk/a\\_to\\_z/service/174/contaminated\\_land](http://www.lichfielddc.gov.uk/a_to_z/service/174/contaminated_land)

## **9. REMEDIATION**

### **9.1 Outline**

Once land has been determined as contaminated land, the Council must consider how it should be remediated and, where appropriate, it must issue a remediation notice to require such remediation.

Remediation involves undertaking works to break, or permanently disrupt, the contaminant linkage, this ensuring that the site no longer poses an unacceptable risk to any receptors; remediation may also involve taking reasonable steps to remedy harm or pollution that has been caused by a significant contaminant linkage.

### **9.2 REMEDIATION WORKS**

#### **9.2.1 Remediation Aims**

The aim of remediation is to demonstrably address contaminant linkages. Such works may involve the following:

- Reducing or treating the contaminant part of the linkage (e.g. by physically removing contaminants or contaminated soil or water, or by treating the soil or water to reduce levels of contaminants, or by altering the chemical or physical form of the contaminants).
- Breaking, removing or disrupting the pathway parts of the linkage (e.g. a pathway could be disrupted by removing or reducing the chance that receptors might be exposed to contaminants, for example by installing gas membranes in a property, or by sealing land with a material such as clay or concrete).
- Protecting or removing the receptor. For example, by changing the land use or restricting access to land it may be possible to reduce risks to below an unacceptable level.

Remediation may be complete in one operation, or split across several phases.

As well as carrying out remediation works, further site investigation may be required in order to provide evidence that the remediation works have been carried out to a satisfactory standard (known as verification), or to determine whether further works may be required. Such works may also involve site monitoring, especially where groundwater or ground gas are involved, over a prolonged in order to obtain sufficient information on which to make a robust decision.

#### **9.2.2 Remediation Standards and Reasonableness**

The overall aim of remediation works is to break the contaminant linkage that has been identified on a site, However, the Council will consider the

reasonableness of the remediation requirements, taking into account the cost of remediation works and the seriousness of any harm that might be caused.

Where the Council considers that it is not practicable or reasonable to remediate land to a degree where it stops being contaminated land, it will consider instead whether it would be reasonable to require remediation to a lesser standard.

When considering what is reasonable, the Council will take into account:

- The practicability, effectiveness, and durability of remediation.
- The health and environmental impact of the chosen remedial options.
- The financial cost which is likely to be involved.
- The benefits of remediation with regard to the seriousness of the harm or pollution of controlled water in question.

## **10. LIABILITY AND COSTS**

Under Part 2A, the Council is responsible for identifying liable persons and apportioning amongst those groups; the Council may also recover its costs where it has had to carry out remediation. This section outlines the process that the Council will follow when doing so.

### **10.1 Identification of Liable Persons**

For each identified significant contaminant linkage, the Council will make reasonable enquiries to identify persons who caused or knowingly permitted that linkage. Those persons would be classified as follows:

- Class A Persons- Generally the polluters and those who knowingly permit contamination; this includes developers who leave contamination on a site.
- Class B Persons- The current owners or occupiers of the land.

If no Class A persons can be identified for a given contaminant linkage, then liability may fall to Class B persons (with the exception of contaminant linkages that fall solely to controlled waters).

If no liable persons can be established, that contaminant linkage becomes an orphan linkage; the Council has the power to carry out remediation of orphan linkages, at its own cost.

### **10.2 Remediation**

Following identification of the liable persons for each contaminant linkage, the Council will identify the remediation that is necessary for each contaminant linkage.

Where there is only one contaminant linkage on the contaminated land, all remediation actions will refer to the contaminant linkage. However, if there are two or more contaminant linkages, the Council will establish if that



remediation action relates to a single contaminant linkage (a single linkage action or multiple contaminant linkages (a shared action).

Where remediation is a shared action, the Council will establish whether the shared action is:

- A common action- that which contaminant linkages to which it is referable, and would have been part of the remediation works if each contaminant linkage had been addressed separately.
- A collective action- that which addresses contaminant linkages to which it is referable, but would not have been part of the remediation for one or more of those contaminant linkages if they had been addressed separately.

This distinction may be important when considering how costs may be split between liable persons.

### **10.3 Attributing Liability**

#### **10.3.1 Class A Persons**

Where a liability group has been established for a contaminant linkage, that group will be responsible for carrying the cost of remediation, however, the Council will consider whether any members of the liability group are exempted from liability cover under Part 2A. This is done by carrying out a number of exclusion tests, in strict order, until only one person remains in the liability group. Where an exclusion test would remove all persons from liability, that test is not run and the next test is applied.

Those exclusion tests are summarised thus:

1. Excluded activities
2. Payment made for remediation
3. Sold with information
4. Changes to substances
5. Escaped substances.
6. Introduction of pathways or receptors.

The Council has responsibility for attributing remediation costs between liable persons; this is a complex legal matter and the Council will follow the procedure laid out in the Statutory Guidance.

#### **10.3.2 Class B Persons**

Two exclusion tests have been set for Class B Persons, the purpose of which is to exclude from liability those who do not have an interest in the capital value of the land.

### **10.4 Recovery of Costs**

Under Part 2A, if the Council carries out remediation it is to recover its reasonable costs from doing so.

### **10.4.1 Cost Recovery Decisions**

When deciding on whether to pursue recovery of costs, the Council will have regards to the following principles:

- The recovery of costs should be as fair and equitable as possible to all who have to meet remediation costs, including the taxpayer.
- The “polluter pays principle” should be applied.

The Council will seek to recover all its reasonable costs for remediation; however, the Council may waive or reduce the recovery of its costs where it considers this appropriate and reasonable- for instance, in circumstances where:

- The recovery of costs would cause undue hardship to the appropriate person.
- There is a threat of business insolvency or closure.
- There could be adverse impacts on the activities of charities.
- There could be adverse impacts on registered social landlords.
- In the case of a Class B persons (and where the presence of contamination was not known about now reasonably foreseeable), where recovering full costs appears unreasonable.

The Council may be willing to consider deferring recovery of costs and instead incurring them by a charge on the land in question.

When making decisions on the recovery of costs, the Council will require relevant information on that person’s financial status; when making such requests, the Council will consider:

- Accessibility of the information
- The cost of obtaining the information
- The likely significance of the information.

Any personal financial information will be held in accordance with the Councils obligation under the Data Protection Act 1998.

The Council will inform relevant persons of the outcome of cost recovery decisions, and the reasons for making those decisions.

## **11 MISCELLANEOUS PROVISIONS**

### **11.1 Funding For Contaminated Land Strategy**

The Council will seek to advance the Contaminated Land Strategy in line with its statutory duties as budgetary constraints allow.

Where possible, the Council will seek funding for the investigation of potentially contaminated land under the Local Authority Land Capital Programme.

## 11.2 Progress on Strategy

From the initial assessment of the GIS system 1632 potentially contaminated sites were identified within the Lichfield District. An officer of the Council then further scrutinised and assessed the identified sites and a list of 55 sites likely to require detailed intrusive investigation was drawn up.

18 detailed intrusive site investigations have taken place since the publication of the original Contaminated Land Strategy.

To date none of the sites investigated have been determined to be contaminated land.

The intrusive investigations to date have been facilitated by our existing budget plus grants received from the Department for Environment, Food and Rural Affairs (DEFRA).

The District Council has in the past achieved significant benefit from previous grant schemes operated by DEFRA. In the past grant funding has been critical in enabling the Council to progress with assessing the risk on identified sites. The grant funding budget has been reduced significantly. The grant from DEFRA will now only help fund emergency cases or continued remediation of contaminated land sites which are of the highest priority. Grant funding will cease 1<sup>st</sup> April 2017.

The cost of undertaking intrusive investigations far outweighs the funding available through the in house revenue budget.

Of the 55 sites identified as requiring detailed intrusive investigation 37 remain on our list requiring further investigation.

DEFRA has implemented changes to the statutory guidance which are intended to refocus the Part IIA regime on the high risk land it was originally designed to address and deal with regulatory uncertainty by clarifying when land will not be caught by the regime.

There are several other initiatives which have been pursued to support more targeted implementation of the Part IIA regime including,

In light of the Contaminated Land Statutory Guidance produced in April 2012 each of the 37 sites requires assessment to determine whether they still meet the criteria for detailed intrusive investigation.

In 2011, following a report Lichfield District Councillors decided:

- That the District Council would investigate one site at a time within the existing budget (in accordance with priority ranking previously identified) and conclude each investigation before commencing any further investigation.

- That where remediation is required the options are considered on a site specific basis and further reports be brought for consideration as necessary.

The rate at which sites will be inspected will be determined by the budgetary and manpower resources available at the time.

Lichfield District Council intends to:

- Reprioritise the outstanding 37 sites in line with the current guidance.
- Inspect potentially contaminated sites in priority order, as budgetary resources, staffing and service priorities allow.
- Assess planning applications to ensure that the land contamination is investigated and remediated appropriately by developed.
- Deal with urgent cases as and when they arise.

### **11.3 Timescales**

The strategy does not lead itself to the setting of fixed timescales as the progress of the individual sites cannot be accurately predicted. However, considerable progress has been made since the publication of the original strategy. Certain areas of work such as developing the GIS and gathering new information on sources and receptors will be ongoing.

It is not possible to set a timescale for the determination of Contaminated Land, but the Council will determine sites as and when they are identified as contaminated land, and will always give due regard to the statutory guidance. There will need to be flexibility in the inspection programme to allow for new information coming to light, as well as changes to legislation, statutory guidance and allocation of resources.

### **11.4 Council Owned Land**

It may be the case that the Council may have some liability or other interest in land identified as potentially contaminated under this strategy. This could occur for a number of reasons, including:

- Land identified as potentially contaminated is owner by the Council
- The Council has been identified as a potentially liable person (see Section 10).

Land that is owned by the Council will be prioritised above privately owned land.

### **11.5 Guidance for Development**

Staffordshire Local Authorities, via the CIEH Contaminated Land Working Group, have collated their resources to produce guidance for developers on the redevelopment of land affected by contamination (A Guide for the Redevelopment of Land Affected by Contamination in Staffordshire (3<sup>RD</sup> Edition), Staffordshire Local Authorities and the EA, 2009), which can be downloaded free from the Council website.

The guidance serves two purposes:

1. To explain to developers and land owners why contaminated land conditions have been applied to a planning application and the background to the legislations.
2. To inform consultants of the Council requirements when addressing contaminated land conditions.

## **11.6 Provision of Environmental Information**

The Council often receives requests for information within the District, typically as part of environmental due diligence or as part of the preparation of a desk study.

The Council will, on request, provide information on land within the District which may, for example, include:

- Historical topographical mapping.
- Historical landfill sites.
- Information contained within any public register (including the contaminated land register and environmental permit register).
- Previous site investigations carried out by the Council under Part 2A.
- Contaminated land issues addressed through the planning system.

When compiling information, The Council will act accordance with the Freedom of Information Act 2000 and The Environmental Information Regulations 2004.

The Council will usually levy a fee, set annually by Regulatory and Licensing Committee, for compiling and preparing environmental information.

Some information held by the Council might not be available due to copyright restrictions.

The Council will not release information on sites identified as 'potentially contaminated' (under strategic inspection) as part of the Contaminated Land Strategy. Any list of potentially contaminated land is information which is considered to be 'a record which is in the course of completion' and therefore exempt from disclosure under Regulation 12(4) of the Environmental Information Regulations 2004. This is also in keeping with the aim of the Statutory Guidance, which seeks to avoid potential property blight.

## References

Department for Environment, Farming and Rural Affairs, 'Contaminated Land Statutory Guidance', April 2012

Department of Energy and Climate Change, 'Radioactive Contaminated Land Statutory Guidance' April 2012

Royal Commission on Environmental Pollution, 'Managing Waste: The Duty of Care', Eleventh Report (Cmnd 9675, 1985)

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Environmental Damage (Prevention and Remediation) Regulation 2009  
Department for Communities and Local Government, 'National Planning  
Policy Framework', March 2012  
Lichfield District Local Plan Strategy 2008-2029  
Contaminated Land (England) Regulations 2000  
Community, Housing and Health and Leisure and Parks Enforcement Policy  
2015  
Department for Business Enterprise and Regulatory Reform, 'Regulators'  
Compliance Code', December 2007

**REGULATORY AND LICENSING COMMITTEE  
WORK PROGRAMME FOR 2015-16**

<b>Item</b>	<b>6 JULY 2015</b>	<b>25 NOV 2015</b>	<b>10 FEB 2015</b>	<b>Purpose of the Report</b>	<b>Lead</b>
Taxi Licensing (Child Sexual Exploitation, Review of Conditions, ranks update)	✓			A general report reviewing and updating a series of taxi licensing matters	NW
Anti-Social Behaviour, Crime & Policing Act 2014 and Public Space Protection Orders'		✓			JC
Environmental Health 2016/17 Fees & Charges			✓	To agree the schedule of fees and charges for EH functions during 16/17	NW/GD
Street collections 2016		✓			SP
Food Safety Service Delivery Plan			✓		GD
New Conditions for Dog Breeding or Boarding Licences		✓		For the committee to consider model conditions produced by the Chartered Institute of Environment Health	NW
Licensing Policy 2016		✓		To approve the final licensing policy before it goes to Full Council for ratifying.	SP
Statement of Principles (Gambling Policy) 2016		✓		To approve the final gambling policy before it goes to Full Council for ratifying	SP
Revised Contaminated Land Strategy	✓			Revised strategy updated to incorporate revised Dept. Of Environment statutory guidance	NW
Street Trading Policy		✓		Proposed new policy for consideration	NW