

## It's up to you in the end

Only after detailed inspection of a site by us as part of the Contaminated Land Inspection Strategy will we be able to provide any comment on the likelihood of a property being determined as Contaminated Land. Even then, any additional information we might receive could mean that a site has to be re-inspected. Until this stage is reached, all we are able to do is provide factual information about a property so that any prospective purchaser can make an informed decision as to whether to proceed.

One option open to householders in search of environmental information is to engage an environmental consultancy to undertake a site investigation to find out if any contamination is present at the property, and if there is, what type it is and how much there is of it. This course of action is not endorsed by Leeds City Council. Regardless of the findings of any such report, Leeds City Council would only make a decision on the contamination status of a site once it has carried out its own investigations as part of the CLIS and will not make any decision based entirely upon information that we haven't collected ourselves.

Sites will not be inspected simply in response to a request to do so. They will only be inspected according to their position within the inspection timetable set out in the CLIS and subsequent Annual Review documents. Sites will not be inspected out of turn unless they meet the definition of an 'urgent' site, which is a site that appears to present an immediate risk of serious pollution or harm to human health.

Please note that Leeds City Council can never guarantee that a site will never be classified as Contaminated Land as, amongst other things, additional information might come to light, environmental legislation may change, etc.

## Further Reading

Contaminated Land: An Inspection Strategy for Leeds etc (£24)  
Annual Review Autumn 2002 (£3.50)  
Annual Review Autumn 2003 (£2)  
Annual Review Autumn 2004 (£2)  
(Refer to [www.leeds.gov.uk/contaminatedland](http://www.leeds.gov.uk/contaminatedland))

NSCA Land Quality – Contaminated Land leaflet – September 2002  
(refer to [www.nasca.org.uk](http://www.nasca.org.uk))

## 'The White Leaflet' CL5



## The Provision of Environmental Information

## Is your house on Contaminated Land?

### Purpose of this Leaflet

This leaflet is aimed at homeowners, prospective homebuyers and homesellers and those undertaking conveyancing work on their behalf. It aims to explain what Contaminated Land is, why people involved in buying or selling residential property should be aware of it and what information Leeds City Council can provide about it.

### Introduction

The city of Leeds and the surrounding areas which make up today's Leeds Metropolitan District (Leeds MD) have a significant industrial heritage. This means that a large part of the land in Leeds MD has previously been used for industrial purposes. Land that has been used in this way may have been contaminated as a result. Many of these former industrial sites have now been redeveloped for residential use. In some cases, the fact that the land may have been contaminated wasn't considered at the time of redevelopment and the land may, therefore, still be contaminated.

Current government legislation (Part IIA of the Environmental Protection Act 1990) means that land contamination has now become an issue that is more and more likely to be considered when residential property is bought and sold. Routine searches are now often carried out by conveyancing solicitors to identify whether the property in question may be affected by contamination.

### What is land contamination?

'Land Contamination' can mean many things. In short, if a particular substance could cause harm to human health, to the natural environment or to buildings it could be described as a contaminant (SOURCE). A wide range of industrial processes involve the use and production of materials/substances (whether by design or as by-products or waste) which are contaminants. In the past, some industrial activity was carried out with little regard for the regulation, safe handling and safe disposal of contaminating substances. This means that these substances may have found their way into the environment. Waste disposal activities can also be described as 'industry' for the purposes of this leaflet.

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## Why is land contamination a big deal?

Contamination may present a hazard to users of the land, the buildings on it and the surrounding environment (RECEPTORS). People may come into contact with contaminants by breathing in dust or gasses, by contact with soil or by eating food grown on contaminated sites. Liquid contaminants and contaminants that dissolve in water can drain through the ground and pollute groundwater, rivers, lakes and ponds. Some contaminants may eat away at building foundations and others may pose a risk of explosion or fire. The effects will depend on many factors such as the type and amount of contaminant present, environmental conditions, the length and type of exposure, etc.

## How does land contamination affect me?

In most cases the risks of living on or near sites that have been used for industry are low. More often than not, any effects are on the value of the property due to the idea of there being a risk rather than any actual effects on the health of occupiers, buildings or the environment.

In practice, the Contaminated Land legislation gives the Local Authority powers to determine sites as 'Contaminated Land'. There is a strict legal definition of 'Contaminated Land' which is complicated; this explains that Contaminated Land is only that land which is, or has the potential to be, significantly hazardous to health or the environment due to the presence of certain substances within it. This means that not all land where contamination is present is Contaminated Land. In fact, very little is.

Leeds City Council is required to inspect its area and identify, where present, Contaminated Land. There is a written strategy for how this is to be achieved (the Contaminated Land Inspection Strategy – CLIS) which is reviewed each year. The written inspection strategy and annual reviews are all available, free of charge, on the Leeds City Council website (see reference at end of leaflet). For a charge, paper copies can be provided by contacting the Contaminated Land team (see first page of this leaflet for contact details).

If a site is determined as Contaminated Land then it must be restored (remediated) to a state where it is 'suitable for use' and therefore no longer causing actual or potential significant harm. This means that the site must be cleaned up to a particular standard depending on what the site is used for. Clean-up standards tend to be much stricter on sites which are used for housing than on sites which are used for industry. The responsibility for cleaning up Contaminated Land will usually lie with the original polluter (i.e. the person or company who allowed the contamination to occur) or with those who were subsequently in control of the land and aware of the presence of contamination but did not take steps within their power to remove or render harmless the substances. If the polluter cannot be 'found' (for example, if the company went bankrupt or the persons responsible are deceased) then the liability for the contamination may pass to the owner or occupier of the land. However, in most cases, it is unlikely that individual homeowners would be made to pay for the remediation of their own property. Also, should homeowners meet 'hardship' tests, they would not be responsible for paying any costs.

## What happens really? What is meant by 'certificates'?

Because of the risk of a property being determined as Contaminated Land, conveyancing solicitors are now carrying out 'environmental searches' to try to find out information about potential contamination issues at a particular property. Environmental searches can be obtained from various companies. These companies keep large databases of environmental information which detail various land-uses and other environmental issues that could have an effect on the contamination status of that property. If these companies are certain that there are no potential contamination issues at a property they will issue a 'certificate' which, according to them, provides a clear and unambiguous statement as to the likelihood of the property being described as Contaminated Land as defined by Section 78(A)2 of Part IIA of the Environmental Protection Act 1990. In many cases, the companies will not provide a certificate. This is where the contamination issue can become a problem and companies recommend that the Local Authority be contacted for further information.

The failure to issue a certificate can lead to a greater feeling of risk by all parties and concerns that:

- the property might not be sold (now or in the future)
- the property value may decrease
- human health or the building may be affected
- the owner/buyer may face large costs to clean-up the site
- the property may appear on a register of Contaminated Land.

However, in terms of Leeds City Council's position as the regulator for the Contaminated Land legislation in Leeds, these 'certificates' have no standing and Leeds City Council does not issue such certificates. Possession of a certificate does not exclude any property from the possibility of being inspected by Leeds City Council and does not guarantee that it will not be determined as Contaminated Land. Equally, the non-possession of a certificate does not mean that a property will be determined as Contaminated Land.

The view of the Council of Mortgage Lenders in Sep 2004 is that there is no general requirement to obtain environmental search reports as, in practice, they are unlikely to help lenders with their decision to lend without specialist advice as:

- 'The reports do not contain enough information on which to make a judgment about risk'
- 'Even if contamination is identified, this is not necessarily a barrier to lending'

## So what do I do now?

In situations where a property is affected by the possibility of contamination and a 'certificate' has not been obtained, it is advised that the Contaminated Land team at Leeds City Council be contacted to see whether we can provide any further information about the property and the risks that might be involved. We hold a variety of environmental information which can be more detailed than that provided by a search company. This information might include details of historic land uses, of closed landfill sites and in some cases details of ground investigations (e.g. soil testing) that have previously been carried out on or near to a particular property. We can provide written responses to requests for information about contamination issues at a property and factual site-specific data can be made available on request. A fee is charged for a written response. For further details, please refer to the Leeds City Council website - see reference at end of leaflet - or contact the Contaminated Land team (see first page of this leaflet for contact details). Please note that grounds for refusal to provide information may apply under the Environmental Information Regulations 2004 or subject to the public interest test – further information can be found at [www.defra.gov.uk](http://www.defra.gov.uk).