

CIEH Standing Conference on Land Contamination

Chartered
Institute of
Environmental
Health



E-Newsletter – April 2010 – The newsletter that really dishes the dirt!

Bumper Pre-Conference Issue

Standing Conference 10th Plenary Meeting – 22 April 2010 – NEC

This is the fifth edition of our newsletter and the first for a while (but we always said it would be "occasional"). The gap has been due, simply, to the volume of work crossing the CIEH's policy desk which like that crossing many of yours, long ago expanded to exceed the time available. Contaminated land continues to be a very busy as well as challenging area of work for all of us, as what follows illustrates, but the CIEH remains committed to supporting LA regulators, whether they are our members or not, as much as it can.

Once again, we're distributing this edition via our contacts in the various specialist Contaminated Land and generalist Pollution Groups and asking them to cascade it electronically to their groups' members. Thanks to them for doing that. But if you receive it by some other route, via a colleague on the next desk for example, why not contact your local group secretary and get your own name on their e-mailing list? Don't know your local group? – e-mail the Standing Conference Co-ordinator via the CIEH website.

Review of the Stat Guidance

The big story of the moment is, of course, Defra's surprise decision in February to review the Statutory Guidance, following, it said, "work over the last year to examine the implementation of the current regime and to reflect experience in delivering that and developments [see below] in scientific understanding". Though neither appears to amount to anything systematic, the Department is now having informal discussions around the country with key stakeholders both in the public sector and on the dark side with the aim of a **formal consultation later this year**. New Statutory guidance is, nevertheless, not expected to appear until the beginning of 2011 at the earliest but its potential impact shouldn't be under-estimated.

The last time such a move was contemplated it was to incorporate the benchmarks of risk in the Department's 2006 Way Forward paper; nothing similar is on the cards now, however, and apart from necessarily taking account of the impact of **the Water Act** (yes, Defra's told us that s.86 of the Water Act is at last going to be implemented – read about training below) the suspicion is that its thrust will be much the same as the now-abandoned draft guidance circulated in confidence to the National Brownfield Forum last autumn, i.e. in particular to push local authorities towards what the Department has, loosely, called "bad" sites and away from others.

It says it wants Part 2A to work as originally intended and the CIEH is not, of course, entirely unsympathetic to that

though we'll have to see the detail. In the meantime we've told Defra again (we rarely miss an opportunity, do we Tom?) that more attention to the UI issue would address many of its concerns while it needs to take care that a message about "focus" isn't read as a green light for contraction.

Desperately seeking SPOSH

Actually more determinedly than desperately but despite government insistence that it doesn't exist, and as a couple of other features in this newsletter show, the CIEH and its close partners have alone continued to follow several leads in the search for the Holy Grail of contaminated land. Our next step is another in the popular and successful series of workshops organised by LQM, to be held again at Nottingham, on 8 & 9 July.

Picking up the tox information uncovered to derive the latest GACs, the aim is to go on to develop **dose-response road maps** for evaluating the risk associated with exceedances of TDIs and Index Doses. To take part, and claim your place in conland history, go to www.lqm.co.uk.

GACs latest

Having mentioned them above, the latest score in the on-going GACs competition is the **Agency 11 : Professionals 111**.

No less than seventy-six new GACs derived under CLEA v1.04 crossed the line in a joint LQM/CIEH attack in July while a further 35, generated under the umbrella of the EIC and the AGS were banged in the back of the net by CL:AIRE in December. Though presented in slightly different ways, both sets are, of course, fully policy-compliant and there was more collaboration between the two teams than might appear.

Congratulations to all those who turned out on the park (aka the Ebdon computer lab at Nottingham Univ) for the Professionals; though the Agency is still

promising four more SGVs, they're now down to 10 men (see below) and their threat of a come-back in extra time is looking little more plausible than David Beckham's return to the England captaincy. Go to the respective websites for more.

All CLEA now?

The second generation LQM/CIEH GACs were, of course, produced under the new, fully-deterministic CLEA model **v1.04**, one of the few outputs of the "Way Backward" to escape Defra's pulling of the off-side trap in 2008. Two further versions have since been released in quick succession though, so what is going on?

Most of the changes in **v1.05** are purely cosmetic or aimed at improving usability, such as the inclusion of a contaminant database and additional exposure data and scenarios. One substantive change, however, is related to the estimation of exposure duration in some land use scenarios though according to the Agency this should have only a minor effect on any assessment criteria calculated using the model. **Version 1.06**, released in October, is identical to v1.05 except for its password protection, and was made necessary according to the Agency after the password to v1.05 was (shock, horror) leaked on jiscmail.

Designed, in the Agency's words "to protect the integrity of the model", the password prevents deliberate changes to the algorithms by more experienced users as well as inadvertent ones, however, hindering QA. Since there also seem to be ways round it, the CIEH agrees with others who have said that **both "locked" and "unlocked" versions** should be made available in the future.

What's left of the Agency (see below) is thinking about it.

Loads o' money

We hear that Defra's capital fund is under-subscribed and, in the way of all budgets not regularly exhausted, is vulnerable to cuts. The old adage applies: use it or lose it, so while you should make sure your site really needs intrusive investigation first, start preparing those bids now and get them in when the next window opens or the money might not be there when you want it. Remember, it's free!

And the training goes on...

The CIEH has now been providing training on contaminated land topics for over 10 years and satisfaction ratings for our latest series, on the ever-controversial topic of Determinations, were, predictably, very high, delegates getting a privileged preview of some emerging work on identifying unacceptable intakes. Next up, and the first topic in the newly-announced 2010/11 programme, will be a series on **asbestos** in July, followed by a series aimed at new entrants on **site characterisation and investigation** and a third, on **risks to controlled waters**, early in 2011 to deal, among other aspects, with the impact of the Water Act amendment (above).

All the CIEH's training on contaminated land has been offered as part of our "EMAQ+" package for the past couple of years. The cheapest way to take part is for your authority to subscribe annually with places costing from as little as £145 but spare places are also available to non-subscribers on a one-off basis. Go to www.emaq.aeat.com for more.

Soil Framework Directive

With less than two months left of sun and sangria, **little if any progress has been made** towards political agreement on a framework Directive which has been threatening to overturn our regulatory

appreciation at least since the publication of the Commission's proposal four years ago. While the UK's case that we've got it all sorted has been shaken by the government's own-goal in the last couple of years, if the five MS's currently saying MYOB to the Spanish President hold their line through June's Environment Council, it will be over to the Belgians in July and, after them, the Hungarians in 2011, to continue waving the flag for a harmonised approach.

AD(C)

DCLG has suspended its Working Party on the revision of Approved Document C. Last November's planned meeting was cancelled at short notice, officials refusing mysteriously to elaborate on a paragraph in September's *Future of Building Control Implementation Plan* which referred to the HPA's ("membranes for all") consultation on **radon protection in buildings** in June.

Suspensions of dark deeds afoot seem undeserved, however, and the Working Party (on which the CIEH is represented) is expected to be cranked-up again in a year or so once the implications of a wider radon review by the HPA have been properly considered by government and DCLG both resolves a short-term staffing problem and makes its mind up whether to combine AD(C) with AD(A) or not. A bit more open-ness from them would have been appreciated in the first place though.

In Parliament

Contaminated land issues crop up occasionally in Parliament and, questioned on 15 December about the impacts of the **London Crossrail project**, Transport Minister Lord Adonis reported that virtually all of the 7.3 million m³ of excavated material was expected to be clean and non-contaminated and suitable for reuse elsewhere. Curiously, however, he added

that only sites at high risk of contamination would be investigated in accordance with CLR11 while lesser risk sites would be subject to "generic procedures" agreed with the local authorities concerned. Explanations welcome.

Speaking on 5 January about the **Olympic Park**, government whip Lord Faulkner described the " huge operation [which] has taken place to clean and reuse thousands of tonnes of soil, which otherwise would have had to be transported offsite. The so-called soil hospital is well worth a visit. It is somewhat surreal. Huge washing machines shake and clean the soil free of contamination including the tar, petrol and oil of many years."

In answer to a PQ from Lindsay Hoyle on 27 January about what duties there are on the owner of a rental **petrol forecourt site** to decontaminate the site once its use as a petrol station has ceased, Dan Norris, for Defra, highlighted the role of Part 2A.

Soapbox time

The forthcoming general election has encouraged a number of "manifestos" from non-political bodies too, among them CL:AIRE and the EIC. In *A decade of change for UK's land use*, CL:AIRE claims that misunderstanding and misinterpretation by local authorities has led to "overly protective measures" and, in an echo of Defra, that it is "essential that the contaminated land regime is used only on the most contaminated sites." Adding that "the final decision of what is... 'contaminated land' [should] be removed from local authorities" they try to win our favour by saying that "there needs to be greater guidance on what is...SPOSH", only to lose it again by suggesting that ought to take socio-economic issues into consideration. We've told them what we think.

In similar vein, the EIC says "the lack of certainty among local authorities over what 'unacceptable risk' means" has been "a key barrier to developing brownfield sites", adding considerable time and expense. The lack of guidance, it says, "is a significant obstacle to local authority progress in implementing the Part 2A regime" and it urges the next government to urgently publish guidance...on making decisions on sites that may be contaminated under Part 2A" only to crash and burn by adding "including a legal trigger point at which land is defined as contaminated". Note to both: this is a health risk-based regime.

Other forums

The CIEH continues to represent the practitioner's view in both the HPA's Contaminated Land Forum and the cross-government National Brownfield Forum (since last year combining the former Defra CL Forum and English Partnership's Brownfield Forum) as well as on the Professional and Technical Panel of the SiLC scheme. Worth a mention from the most recent meeting of the first is news that a proposal from a consortium of HPA/FSA, Reading, Newcastle and Nottingham Universities and supporting local authorities for a project to look at **exposures from allotments** will be going to the NERC for funding in June.

Attendees at the December meeting of the second heard of Defra's intentions to go ahead with controversial guidance on making Part 2A decisions (only for that to be reversed within weeks) and learnt that the **revision of PPS23** has now kicked-off in DCLG - watch out for changes to Annex 2 (suggestions to Mark.Plummer@communities.gsi.gov.uk), especially with the Tories promising less planning guidance.

The SiLC scheme published a draft *Land condition skills development framework* in December. Though there is, of course,

some cross-over, relating to land *condition* rather than contamination and not aimed at regulators the Framework is intended to help bring better standards to the private sector (the reason the scheme was established). Regulators should nevertheless benefit if it reduces the time they have to spend on inadequate third-party reports.

Competence at last

Meanwhile, and after some delay, the CIEH will be releasing its own proposed Competence Framework for local authority contaminated land regulators to co-incide with the plenary meeting of the Standing Conference on 22 April. Drawing heavily on work done by the **Training Working Group** (and presented to a past meeting of the Conference), completion of the Framework has been delayed since initially by the need for trials in some volunteer authorities (and thanks to them) but mainly by the need then to take account of the development of a new core undergraduate curriculum by the CIEH and, latterly and not least, of other emerging competence frameworks for LA regulatory services (in particular from the HSE), encouraged by LBRO.

It's been a bit of a bumpy ride but we want to hear what you think and consultation on the draft will last until the end of July; to see the Framework and **have your say** go to: http://www.cieh.org/members/membership_consultations.html.

Come and join us

As Michael Caine might have said, not a lot of people know that membership of the CIEH, including full voting membership, is open to everyone who works in the field of environmental health, not just EHOs; anyone with a commitment to the profession can find a membership grade to suit them, whatever the stage of their career.

Go to "Membership" at www.cieh.org to find out more.

Consultations

Land conditions

With the help of members of the Standing Conference's Planning Working Group, the CIEH recently responded to a consultation by the Planning Inspectorate (PINS) on **new model planning conditions**, including for contaminated land. Though it's only a couple of years since DCLG published the last set, actually devised by the same Working Group, a subsequent policy decision in the Department to transfer future responsibility for all model conditions to the Inspectorate led the latter to issue a whole new draft set in December. It's a pity they didn't pay more attention to the current ones in the process but we've tried to put them right on their errors.

And elsewhere

Consideration of land condition in the wider sense can crop up in unlikely places and one of the latest is in connection with the government's **National Policy Statements** – overarching planning guidance - for new major infrastructure projects such as power stations and airports. Six draft statements on aspects of energy supply were released last November and though they gave some space to issues of land use, that focused on amenity and the CIEH commented that it would like to see more explicit consideration of contamination issues.

Though many of the developments contemplated by the NPSs will be on previously unused sites, others will be on sites adjacent to existing similar developments or re-use older sites, many of which are **likely to exhibit some contamination** whether directly because of that use or through migration. Though at the same time, their future uses may suggest little risk to some potential receptors that may not be true

for others and the process of development itself may increase it. In such cases, the CIEH said, recent examples illustrate the need for **care in remediation** apart from the general principle that that should be as sustainable as possible. Similarly, design opportunities should be taken where possible to minimise soil-sealing and provide sustainable drainage.

Publications

It can sometimes seem to be a case of *Guidance, guidance everywhere nor any time to think...* to paraphrase some poet or other, but if you won't find much rime in this lot, hopefully there's plenty of reason...

Taking the Lead

Colleagues awaiting the Agency's Tox and SGV reports on lead might be interested in the meantime in a report of a **Dutch workshop** entitled *In-vitro modelling of human bioavailability of lead from soils: application to risk-assessment of soil quality* in:

http://www.hpa.org.uk/web/HPAwebFile/HPAweb_C/1263812796194 at p.78 and, perhaps, to a paper by Chandramouli *et al* in the Archives of Disease in Childhood 2009; **94**:844-848.

Tip Top Tox

The report of an expert seminar entitled *Can toxicologists further define 'unacceptable intake' for contaminated land?* appeared on the website of the **Royal Society of Chemistry** (<http://chemistry.rsc.org>) in August.

Following a number of presentations, including by the CIEH, to a panel of distinguished toxicologists not contaminated by previous work on land, the answer to the question came back (as we've always said) a clear "yes", rather undermining claims that the difficulties of doing so are "insuperable".

Nothing to FERA after all?

A summary of a recent Defra-funded R&D project conducted by the Food and Environment Research Agency on the **potential health effects of contaminants** in soil has been published on the Defra website at <http://sciencesearch.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=161855> in March. Some detailed appendices will be added shortly.

Said to be part of Defra's reason for revising the SG (above) and seeming to put the Toxicologists in the dock, it concludes "overall, there is no evidence for widespread impacts of contaminated land on human health." though it caveats "the potential for health impacts has not been dismissed". Actually completed last October, it is not clear why Defra kept the work under wraps until December.

Verification of remediation

Though it hasn't got the resources to knock out SGVs, the Agency has nevertheless found time to produce an 87 page guide to checking **whether a remediation scheme has been successful** and met its intended goals. Linked throughout to CLR11, it identifies four key stages in the process: developing the remediation strategy, developing the verification plan, implementing that plan and long-term monitoring and maintenance, recommending the use of professional judgement to integrate lines of evidence in an evolving conceptual model. It's at: <http://publications.environment-agency.gov.uk/pdf/SCHO0210BRXF-e-e.pdf>

Surfin' HCA

No, not a Beach Boys tribute but "the first authoritative **sustainable remediation framework** launched in the UK" apparently, *A Framework for Assessing the Sustainability of Soil and*

Groundwater Remediation was published last month by SuRF-UK, a grouping of stakeholders including SAGTA, site owners, regulators and consultants, facilitated by someone called Claire.

Funders, the HCA, says it will "become a crucial tool in streamlining future decision-making around remediation processes and the key stages in site development". So you'd better go to www.claire.co.uk/surfuk for your free 63-page copy right now.

Get your Cadmium here

The HPA has published an **Information Sheet** on well-known heavy metal and sometime carcinogen Cadmium. The first in a proposed series of similar documents, it covers its geochemical prevalence, behaviour in soil, bioavailability and accessibility, toxicity, health effects, HC/SGVs and public health significance. Distilled from a longer document in the HPA's Compendium of Chemical Hazards and usefully concise, it's worth a read. The HPA's website being only a little more useable than the Environment Agency's however, its URL would take up several lines here so use the search box at www.hpa.org.uk if you're interested.

Bio available again

The CIEH's Professional Practice Note on bioavailability, released last June, should be coming in for a quick up-date during this year following the publication of the **Unified BARGE Method** of bioaccessibility testing, one of the few calibrated against *in vivo* data. The result will appear under "Resources" in the Standing Conferences webpages of the CIEH's site.

Not to be sniffed-at

Publication of SNIFFER's revised guide to **risk communication** has been delayed again, but only slightly. Intended to be released around now, it's in its final review stage and the latest estimated time of arrival is August/September. If

it's as good as the original, published in 1999, it should be worth the wait. Go to www.sniffer.org for more.

Will the last one out...?

September's CLEA Bulletin announcement that the team toxicologist had "left to pursue his career elsewhere" is turning out to be only a small part of the Agency's sorry staffing story. With *Brownfield Briefing* reporting a budget-driven "process of change", likely to lead to **cuts of up to 35% in the headcount** underway, rumours are reaching us of several well-known names in the "Evidence Directorate" (previously Science) whose expertise no longer seems to be valued. At the same time we hear that the contaminated land policy team at Agency HQ also no longer exists as such, altogether seemingly continuing a trend begun with the closure of the National Centre (by the Agency's current Chief Executive) some years ago. What's he got against contaminated land?

Not so comic cuts

Meanwhile, a BBC survey in March has predicted up to **10% of jobs will also go** in English councils as they try to balance their books over the next 3-5 years in the face of falling income and rising demand for social services. Planned cuts in spending, varying typically from 5%-20%, translate to c.180K posts nation-wide.

While two-thirds predict **reductions in environmental services**, discretionary aspects are always most vulnerable and, ironically, the already low staffing levels in contaminated land (our Needs & Resources survey 3 years ago showed the average authority employs less than 1 FTE on this function) may be its saving but the CIEH has nevertheless warned the government that such highly specialised services, once shed, will take many years to re-build.

In's and out's

While, around the Standing Conference, Ciara Longman, convenor of our Planning Working Group keeps her regular slot in this column with moves since our last edition to and then from Bath to Waverley to Camden to ? while from the All-Wales Contaminated Land Group, Andrew Fuller has decided to take the

early bath in May. *Diolch yn fawr iawn* and good wishes to him.

We have recently refreshed **our contact list** for all the ConLand Groups. To keep it up to date and to keep in touch with you, please tell us if the main contact for your Group changes.

The 10th plenary meeting of the CIEH's Standing Conference on Land Contamination will be held in association with "SustainabilityLive" on Thursday 22 April 2010 in the "Toute Suite" at the National Exhibition Centre, Birmingham (train: Birmingham International) between 10.30 – 4.00.

Attendance is free – we even throw in lunch - but attendees must register first for the host exhibition by visiting the parent website: <http://www.onlineregistration2.co.uk/cgi-bin/reg.pl?showdir=sustainabilitylive/10&formname=reg&sourceindex=-BX>

Also, places are necessarily limited and access to the Standing Conference will be by ticket only. To obtain yours, e-mail Bill.Baker@conland.fsworld.co.uk. If your name's not on the list, you're not getting in!

The Conference will include presentations on the **work of the MoD**, on the **revision of BS10175** and an **up-date on toxicology**.