

Single Member Cabinet Decision

**Executive
Forward Plan
Reference**

E2156

**Cost recovery policy for remediation
of contaminated land in Bath & NE Somerset**

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| Decision maker/s | Cllr Francine Haerberling, Leader of the Council Cllr Malcolm Hanney, Cabinet Member for Resources Cllr Charles Gerrish, Cabinet Member for Service Delivery |
| The Issue | Statutory guidance made under the Environmental Protection Act 1990 recommends that local authorities should adopt cost recovery policies to provide a framework of financial assistance for those persons who are required to remediate land that has been determined as contaminated land by the Council. |
| Decision Date | 11 August 2010 |
| The decision | <p>The Cabinet members have agreed that the policy for the recovery of costs associated with the remediation of contaminated land under Part IIA of the Environmental Protection Act 1990 is adopted with the following amendments:</p> <ul style="list-style-type: none">• A statement is inserted that the Council will review the policy at regular intervals.• A statement is inserted that the Council is not liable for remediation costs for contaminated land (except where it was the original polluter of the contamination). |
| Rationale for decision | The adoption of this policy is necessary to comply with the hardship provisions laid out in the Environmental Protection Act 1990 and associated statutory guidance. Without such a policy, the Council may not be eligible for any future funding from DEFRA. |
| Financial and budget implications | <p>The Policy does allow for financial assistance to be given to individual property owners, businesses, charitable trusts and registered social landlords. This assistance is only provided in specific circumstances; in the case of residential property owners the application is subject to a means test and then ratified by a Council Officer Panel. Notification of a Panel meeting and any subsequent decision will be reported to statutory officers of the Council. Each case will be considered on its own merits.</p> <p>It is difficult to predict the likely costs that will be generated by adopting this policy and therefore this creates a liability for the Council. The factors that would influence remediation costs would include the nature and extent of the contaminants, and the existing</p> |

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| | <p>use of the land. To mitigate the liability, all remediation schemes will be submitted for PID approval which will lead to formal project decision making.</p> <p>Funding for remediation would be sought in the first instance from central government funds. Where funding has to be provided by the Council the default position will be to fund from capital contingency and seek recovery by placing a charge upon the property. Costs of remediation will be recovered either by being repaid in instalments or reclaimed when the property is sold.</p> <p>In all other cases of hardship (where charges are not created), funding will be required from revenue contingencies as no asset has been created.</p> |
| Issues considered | Issues that were considered in making this decision were: Customer Focus; Corporate; Other Legal Considerations |
| Consultation undertaken | <p>In carrying out consultation on this decision several comments were submitted about the proposed cost recovery policy from members of the public. These are summarised in the attached appendix.</p> <p>Other comments were submitted about a specific soil quality study that is currently being managed by the Council and these have been answered on an individual basis with the residents involved.</p> <p>Consultation has also been carried out with: Leader of the Council, Cabinet Members for Service Delivery and Resources, Section 151 Finance Officer, Chief Executive and the Council's Monitoring Officer. External specialist legal advice relating to the contaminated land regime has also been received.</p> <p>The Cabinet Members have taken into consideration all the received comments when making this decision.</p> |
| How consultation was carried out | Consultation was carried out through circulation of the report. |
| Other options considered | None. |

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| Signatures of Decision Makers | |
| Date of Signature | |
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APPENDIX:
Summary of comments received concerning Forward Plan E2156-
Cost recovery policy for remediation of contaminated land in Bath & NE Somerset

- The Council should make every endeavour to secure central government funding to undertake the necessary remediation;
- Present owners of properties should not be expected to pay any costs of remedial work and therefore the concept of a legal charge, payment by instalments or means testing for hardship grants is not supported;
- The mechanism of using the means test contained within the Housing Renovation Grant system is questioned as the criteria appears confusing and those who have applied for a grant have normally bought a house knowing that it is in need of renovation. In addition, renovation is optional whereas remedial work on contaminated land is not;

(Resident from BA1)

- The resident wished to object to the report on the Cost Recovery Policy for remediation of contaminated land in Bath and NE Somerset.
- There should be negotiation with the property owner on the amount to be charged on their property.

(Resident from BA1)

- The proposed Cost Recovery Policy is a reasonable document in setting out a Cost Recovery Programme. The Council should make every endeavour to secure central government funding to undertake the necessary remediation,

(Resident from BA1)
