



Title: Contamination Land Incident (By Asbestos Containing Materials) - Part I

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1. Introduction

This report is intended to seek the approval of Members for the possible future expenditure involved should the Council believe it necessary to intervene in the clearance of asbestos causing material to upwards of twelve privately owned residential properties in and around the affected area of South Wigston.

2. Recommendations

Members are asked to delegate authority to the Community Safety and Environment Manager in conjunction with the Chief Finance Officer and Chair of this Committee to appoint a licensing specialist asbestos removal expert to undertake clear-up operations to contaminated land to an agreed budget of not more than £100,000 (one-hundred thousand pounds) should this be necessary.

3. Information

- 3.1 On or about the 11th April 2016, between five and twelve privately owned residential properties were affected by the depositing of Asbestos Containing Material (ACM) into their private gardens. The circumstances are such that a male co-owner of a small business which owns several small garages climbed on the roof and is alleged to have cleaned the roofs of several garages using a jet Washer device. The cleaning caused the ACM to be spread over an area of at least six residential properties.
- 3.2. Members may be familiar with the old type of corrugated roofing material communally used on commercial premises until crystallites were banned in 1999 by ***The Asbestos (Prohibitions) Regulations 1999***. Although the manufacture of material using crystallites was banned we often find roofing material containing asbestos crystallites still around, typically and in this case they are found in the roofing sheets (see photograph).



(Asbestos roof)

- 3.3 The Council's Environmental Health Team has been working closely with the Health and Safety Executive who are considering prosecuting the individual for breach of legislation around health and safety in the workplace. We have met and have sought the co-operation of Public Health England and The Environment Agency who agreed a

joint health and risk advice to affected properties. Experts determined there was no immediate risk to health but, advised a clean up should take place without delay. In terms of our role **The Environmental Damage (Prevention and Remediation) Regulations 2009** determine we are obliged to take responsibility for the actual enforcement of damage caused to land. In cases where we cannot recover costs we would be obliged to clear land of pollution of this type.

- 3.4. In discharging this responsibility we have made it clear that the responsibility for the actual clearing of the pollution vests with the polluter who has accepted responsibility but, has been slow to appoint licensed specialist contractors. In addition to responsibility for any clear up the polluter could face a prosecuting under the **Environmental Protection Act 1990, s.33**. Successful prosecution may allow for the recovery of any Council borne costs of any clear up.
- 3.5. Our immediate priority for now is ensuring the safety of those residents who were affected by this pollution and Members can be assured that we have been working with our affected residents and acting as a mediator and go between with alleged polluter, specialist contractors and residents who each have our sympathy for the situation they find themselves. We have also been working proactively with the persons we believe caused the pollution. This has been a timely and complex issue in terms of the logistics and of course determining what properties were affected because crystallite asbestos is of course so small. One advantage is that most of the crystallite was encased or bonded together which, explains why we refer to it as Asbestos Containing Material. That said, there may have been small amounts of actual crystallites released.
- 3.6. The testing results could conclude that the twelve properties are each affected or indeed it could conclude that those that were affected initially are no longer affected or the affects have been mitigated by weather or minor clear up operations by the residents. It is important that any required clean up action commences without further delay.
- 3.7. Members can be assured that we are doing all we are able in working with the alleged polluter while balancing the needs and concerns of our residents who's priority is being able to use their gardens safely.

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Implications	
Financial (CR)	As contained in the report.
Legal (AC)	As set out within the report.
Risk (AC)	CR1 – Decreasing financial resources. CR4 - Reputation damage.
Equalities (AC)	No significant equality implications.
	Equality Assessment:- <input type="checkbox"/> Initial Screening <input type="checkbox"/> Full Assessment <input checked="" type="checkbox"/> Not Applicable