

# SiLC Newsletter

News update by the SiLC Champion

November 2010

Issue 4

## SiLC in the Big Society

The economic downturn has hit the land regeneration sector particular hard in the last few years, and whilst the UK economy is no longer in recession, it is clear that the Government's spending review will continue to have an impact, most notably in the public sector. Could it be that these events will eventually lead to changes in the procedure for the assessment and regulation of contaminated sites?

There is no doubt that the land regeneration sector has matured significantly over the last decade under the governance of improved environmental regulations, guidance and the scrutiny of environmental regulators. However, the introduction of more legislation has led inexorably to an increase in the burden of administration which could, unless properly managed, actually detract from the strategic aim of such legislation to protect and improve our environment. Couple this with a squeeze on resources, whilst recognising it is necessary to maintain standards in environmental protection, and it could result in the need to develop an alternative way of regulating land condition assessment without automatic regulatory intervention and detailed oversight of each and every activity in the process.

There are after all a whole range of trades and professions where practitioners are licensed or certified to perform certain duties and services. Within the land regeneration sector there exist many opportunities for some level of self-certification, whether it is demonstrating skills for undertaking site investigation tasks, risk modelling or providing verification reports for remediation. Such responsibility would of course be accompanied by an auditable process and accountability to the regulatory authorities. It is clear that practitioners would require 'professional status' probably accompanied by an independent assessment of an individual's competencies.

The SiLC registration scheme clearly has the capability to meet these aims. However, this does not necessarily mean that an individual SiLC is expected to be a technical expert in all disciplines associated with site assessment, but rather the SiLC ensures that relevant quality controls are put in place and only competent practitioners who have the appropriate skills and experience are involved in undertaking specific assessments and tasks. The credibility to deliver such 'sign off' products comes through the strong ethical code of conduct by which all SiLCs must abide.

## New Secretariat

SiLC is in the process of developing and implementing a new business plan for 2011 and beyond. This will involve the appointment of a new secretariat which will be announced in the New Year, along with new opportunities for SiLC.

We would welcome any ideas for the ongoing development and expansion of SiLC.

### Key Dates

- 2011 Application Dates
- Round 1 -application 1st April, written test May.
- Round 2—application 25th July, written test September.
- Induction Training Day— t.b.c

### Events

- [Geological Society](#)
- [RSC](#)
- [ICE](#)
- [CIWEM](#)
- [IEMA](#)
- [RICS](#)
- [CIEH](#)
- [REHIS](#)
- [AGS](#)

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## SiLC Annual Forum



The SiLC Annual forum was held at the Geological Society in October. It was well supported and the delegates were provided with a range of topical presentations from guest speakers drawn from across the sector.

Nicola Paton (National Grid) provided the opening address and chaired the event. Ian Grant (the Editor of Brownfield Briefing) provided an 'editors view' of new activity occurring in the sector, Ged Duckworth (GD Environmental) presented an update of the Definition of Waste Code of Practice, Frank Evans (National Grid) provided an insight into a number of key sustainable remediation initiatives in Europe and Denise Downen (Berryman's Lacey Mawer) gave a presentation on the challenges facing expert witnesses

The SiLC PTP would like to thank all of the speakers for their presentations and the Geological Society for hosting the event. Copies of the presentations are available on the SiLC website ([www.silc.org.uk](http://www.silc.org.uk)).



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### SiLC Champion Feedback

**Do you have something to say about SiLC or any other topics? We would welcome contributions to the Newsletter**

**Marketing and presentation materials about SiLC are available - contact the secretariat**

### Regards

**Kevin Eaton  
SiLC Champion**

## Supporting Organisations



## New Powers for the Environment Agency

The Regulatory Enforcement and Sanctions Act 2008 (the RES Act) introduced a new range of alternative civil sanctions that could be provided to regulators, instead of pursuing all environmental offences in the criminal courts. The Environment Agency (EA) and Natural England were given the power to enforce these sanctions in England in April 2010 by the Environmental and Civil Sanctions (England) Order 2010 (and similar for Wales, although no equivalent regulations as of yet for Scotland).

The EA will start using Enforcement and Civil Sanctions from January 2011 for some, but not all, of the activities that they regulate. Initially the Civil Sanctions will mainly be applied in the hazardous waste and water resources cases. Civil sanctions for offences committed under the Environmental Permitting Regulations will not be introduced until April 2011. Under the sanctions, the regulator can issue:

- A compliance notice – a requirement to take specified steps within a set timeframe to prevent an offence from continuing or recurring.
- A restoration notice – a requirement to take specified steps within a set timeframe to restore the pre-offence

position, or

- A stop notice – a requirement to immediately halt the activity until steps are taken to ensure compliance.

The fines range from a modest Fixed Monetary Penalty (FMP) to a Variable Monetary Penalty (VMP) - a proportionate penalty that may be imposed for a moderate to serious offence where the regulator decides that prosecution is not in the public interest. However, the polluter can also enter into an Enforcement Undertaking (EU) to avoid criminal prosecution. This is a voluntary agreement for business who wish to repair any environmental damage they may have caused and to return to compliance, in both the immediate term and long term. It can also include providing compensation for the local community.

The main aims of the sanctions are to improve compliance, prevent harm and reduce risks to the environment, ensure any damage is restored and provide restitution to local communities. Essentially it is to uphold the principle of the polluter pays but ensure that the punishment is in proportion to the offence committed.

## Communicating Risk

As the dust settles on the Corby case and the financial settlement is made to those most affected, this case will continue to affect the way in which the sector deals with the management of contaminated land. The case demonstrated the seriousness such issues can have on human suffering, and therefore highlighted the importance of understanding and communicating the potential risks involved.

Risk communication may only be required occasionally for contaminated land projects, but in situations where there is significant interaction with the general public, an effective communication strategy is needed. The updated publication *'Communicating Understanding of Contaminated Land Risks'* by SNIFFER provides useful guidance when accompanied with comprehensive site assessment, robust risk assessment and good site management practices. The document identifies key elements of an effective strategy, such as building trust, understanding perceptions, the careful timing of information release, explaining science as simply as possible and working with the media. The guidance is easy to follow and has some useful reminders, tips, key points and case summaries, including examples of strategies which went wrong, as well as those that worked. It also provides advice concerning communication methods for consultation and community dialogue, and a section on delivering 'the message'.

A few pages of tips in a guidance document alone are not going to prepare someone to deliver this sensitive task. However, the checklists are useful for even the most experience professional, and can be applied early in preparation for the task ahead. As always, involving experienced professionals, such as communications and public relations teams, is recommended.

## Updated Statutory Guidance for the New Year?

Defra have been out to public consultation on the revision of statutory guidance (Part 2A), and feedback on the consultation process is expected at the end of the year. It is understood that the guidance will be simpler and shorter, but essentially the basic structure will go unchanged. However, the guidance is expected to address the issue of 'significant pollution' with respect to water and provide further definition of what constitutes a controlled water.

It is understood that there could be expansion in the area of the application of risk assessment, keeping the same significant pollutant linkages approach, but providing more clarity on recognising and dealing with 'uncertainty'.

It is anticipated that there will be the introduction of a 'traffic light' system; green, amber, red, with supporting guidance on dealing with relevant issues on amber sites. The hope is that such an approach will avoid Local Authorities spending too much time and resources on low risk 'green' sites.

It is expected that the guidance will identify the need to use suitable qualified professional, and hopefully there will be a role for SiLC in providing such support.

