

Court ruling creates increased environmental risk concerns for land owners

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Argyll Environmental (<http://www.argyllenvironmental.co.uk>), the Brighton-based environmental risk management consultancy and part of Landmark Information Group, believes that a controversial decision (<https://court-appeal.vlex.co.uk/vid/a2-2017-0119-689130721>) by the Court of Appeal that ruled a Local Authority cannot be held liable for pollution it caused on a piece of land due to the Authority having restructured, creates the potential for greater uncertainty for current and future land owners.

The Local Authority in question has restructured and is now a distinct entity from the original polluter (Powys County Council v Price & Anor). While this is good news for Local Authorities who may be able to pass responsibility onto land owners, it will be a politically difficult discussion for them to have with the public.

Jaime Bainbridge BSc (Hons) MSc PIEMA Environmental Auditor, Consultancy Manager of Argyll Environmental said: "Now there is potentially greater risk for landowners or occupiers that they may find themselves responsible for pollution they did not cause, simply because they own or occupy the land. I fear this judgement could also encourage businesses to fight liability cases using a similar argument, if they restructured at the right time."

All this challenges the long standing Polluter Pays Principle associated with contaminated land; a direction which appears counter intuitive to what the public would expect.

Continues Jaime Bainbridge: "The fallout from the decision is causing some Local Authorities to reevaluate their Contaminated Land liabilities. Given the lack of resource Local Authorities have to deal with contamination in their area, there may now be less hesitancy in determining sites because the costs could sit with the owner or occupier. Our advice is 'buyer beware' and ensure correct land contamination due diligence is undertaken, without hesitation."

This case highlights the importance of due diligence when buying or leasing sites. It simply cannot be assumed that because a site was formally owned by Local Authority, that they are responsible for cleaning up any identified land contaminants under the 'polluter pays' principle.

A short video exploring the risks from landfill sites and how these can be managed can be found here – <http://www.argyllenvironmental.co.uk/consultancy/contaminated-land>.

Full details of the judgement relating to the landfill site can be found here - <https://court-appeal.vlex.co.uk/vid/a2-2017-0119-689130721>.

For more information regarding Argyll Environmental, call 0845 458 5250 or visit www.argyllenvironmental.co.uk.

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Notes to Editors:

About Argyll Environmental:

Argyll Environmental, a Landmark Information Group business, is a specialist risk management consultancy. It provides environmental due diligence and risk assessment services for land and property. Clients use these to support transactions, redevelopment, corporate decision making, investments and valuations.

Services include desktop screening reports and risk management services through to on-site consultancy work. Argyll's services span many market sectors including high-value residential and commercial property, agricultural land holdings, self-invested personal pensions (SIPP) and real estate asset management.

Argyll supports the majority of the UK's top 50 law firms, leading SIPP providers, global private equity asset managers, housing associations, property developers, planners and architects.
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