

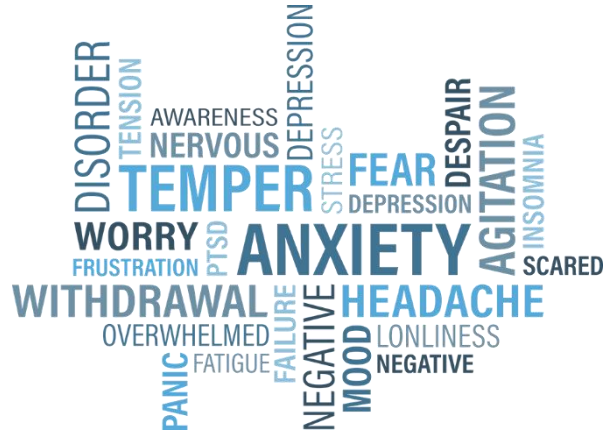


Getting from this.....to this (and getting it right!)



Why bother getting material re-use right?

Prosecutions for illegal use of waste



£247k fine for for
operating outside of U1
exemption limits

Waste crime is 'the new narcotics', says Environment Agency chief

Sir James Bevan, head of the UK agency, says waste crime offers huge profits while costing England £1bn a year



So what's this got to do with me I hear you say?



How about this?



Andnote, from 1st April 2018

HMRC, working with the waste industry, is extending landfill tax to waste unauthorised waste disposal

Why, because waste crime costs >£600m/year and up to £200m tax is avoided

Thus, important that we all deal with waste in accordance with the law

£88.95/tonne England – standard landfill tax rate

£133.45/tonne Wales – unauthorised disposals rate

If 17,000m³ soil was re-used on site without a permit or registered Materials Management Plan this could equate to a fine of approximately £3m



How does this come about

The Definition of Waste, Waste Framework Directive

....anything you discard, intend to discard or are required to discard.

What does this mean?

- Every bucket of excavated soil could be classified as waste
- Potential Requirement for an Environmental Permit (formerly a Waste Management Licence) or an Exemption
- Waste remains waste until it is fully recovered

What can we do about this?

We must stop it becoming a waste by proactively managing our soil during development

Maximising revenue through soil re-use requires us all to be proactive

Consider are you:

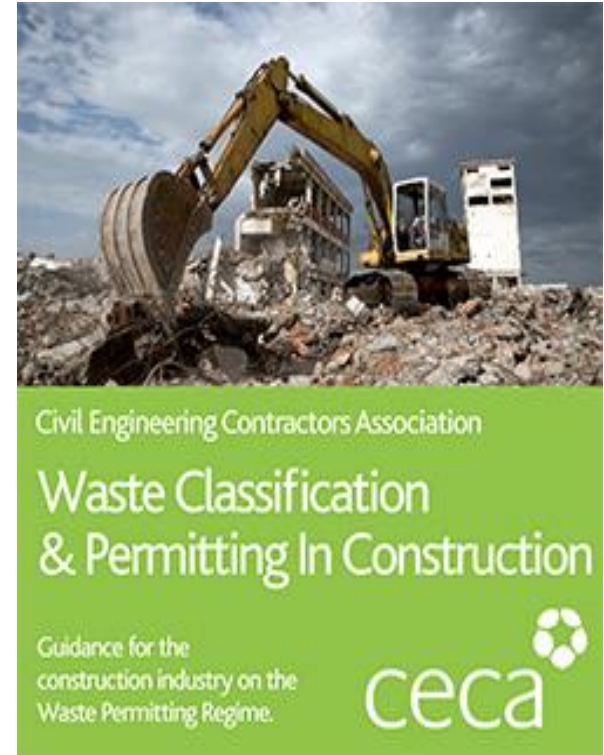
1. Reactive during development leading to higher quantities of off-site disposal
2. Proactive during development such that some material is re-used but it is a stressful process for all concerned and often results in material disposed off-site
3. Proactive in design phase - planning the site levels to maximise material re-use



What are the options to re-use material

- Site permit
- Waste recovery permit
- Permit exemptions
- U1 Exemption – 1000T soil but proposals to tighten this to 100T aggregate and not for landscaping

Thus, need to upgrade to a permit or use the 'CL:aIRE Definition of Waste: Code of Practice' for material re-use in construction projects

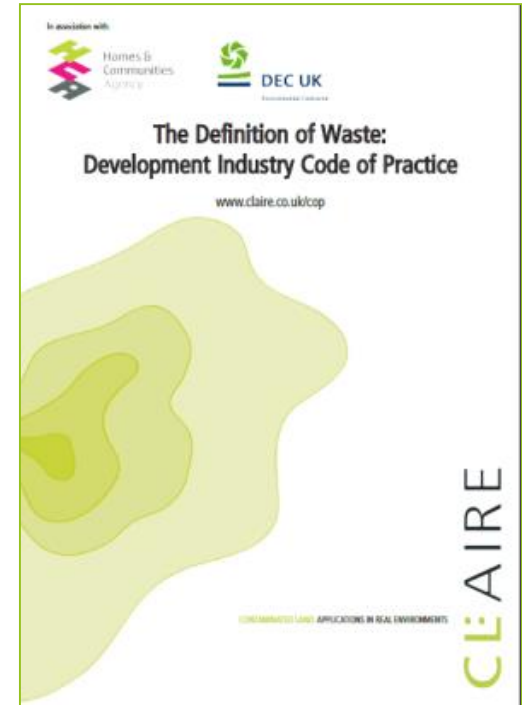


EA Position Statement 2017 re CL:aIRE DoWCoP

J8 – Definition of waste code of practice The Environment Agency encourages the appropriate remediation of brownfield land and the reuse of soils. It will take account of the CL:aIRE definition of waste: development industry code of practice in deciding whether to regulate excavated materials to be used in development and remediation projects as waste. **If materials are dealt with in accordance with the code of practice, it is considered that those materials are unlikely to be waste at the point when they are to be used for the purpose of land development and remediation.** The code relies upon an audit of the development proposals for the material re-use, by a qualified person. If the qualified person is satisfied that the materials to be reused is in line with the code, they issue a declaration of compliance which is supplied via CL:aIRE to the Environment Agency. To ensure continued protection of the environment and human health, the Environment Agency will, from time to time, undertake a random audit of decisions made by the qualified person. The success of this approach requires a high level of professional integrity by those involved. **If audit findings indicate that the code of practice is being used improperly and that human health or the environment is being put at risk, the Environment Agency will withdraw this position and revert to case by case decision making.** For more information see the legal definition of waste.

The Code of Practice (DoWCoP)

- Applies to construction projects
- Applies to topsoil, subsoil, made ground, stockpiled excavated materials, segregated aggregate material from demolition but NOT invasive species or other C&D wastes
- Materials Management Plan (MMP) documents re-use proposals
 - how much is to be re-used and where
 - confirmation that it is suitable for re-use
 - details how the people & environment will be protected
 - verification process
- MMP is reviewed by and declaration made by Qualified Person (QP), who is independent of project team
- Requirement of MMP is to provide a verification report



Qualified persons

Demonstrably a competent and experienced person:

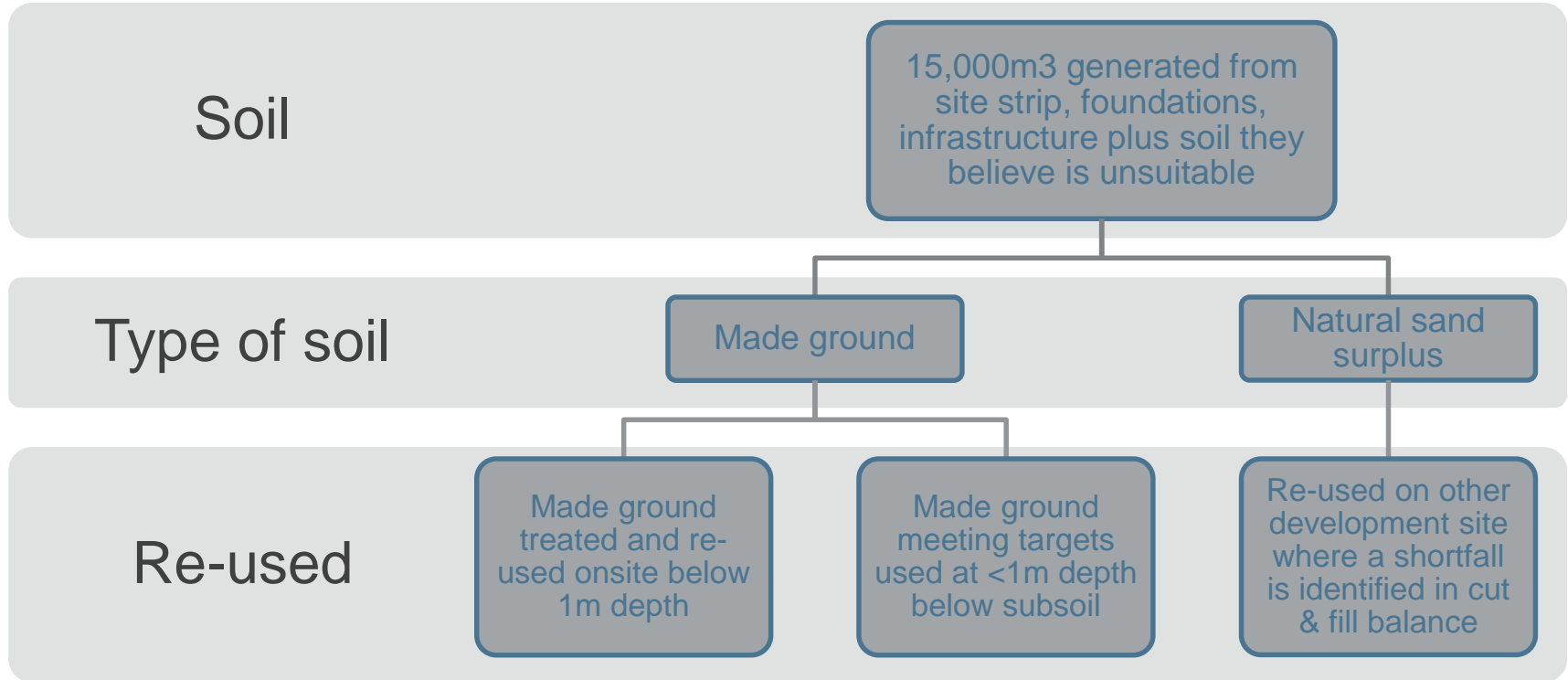
- Corporate authority – provided by employer
- Chartered – check status of registering body
- Relevant academic qualifications
- Minimum 5 years experience
- Currently engaged in planning, management or oversight of remediation projects or projects involving site materials management
 - Demonstrated by detailed CV
- Not directly involved with the execution of the project (but can have been involved in earlier stages of site assessment)
- Not barred – no convictions under waste or environmental legislation
- Training by attending a specific course
- Registration – not an EA requirement but:
 - scheme set up by CL:AIRE requiring self declaration

What does the qualified person need?

To complete the declaration the person needs clear documentation that includes:

- planning application details including site boundary
 - whether material is being re-used on site of origin (either affected or not by contamination)
 - whether clean natural material is being used on another development site
 - whether it's a cluster project
- the proposed volumes to be re-used
- contact details of site of origin (and disposal site if different)
- local authority and Environment Agency details
- payment details of the person paying the declaration
- reference for the MMP, risk assessment and remedial strategy / design
- estimated date for completion of verification report and who will be completing it
- location plans, mass balance calculations, contingency plans, tracking systems

How does this all work in practice?



DoWCoP declarations – current statistics

4063 declarations since 2009 (451 per year average)

69,266,637m³ material re-used (17 x Wembley stadium)

262 Qualified Persons

Previous research found UK construction is likely to be undertaking in excess of 70,000 activities each year that should either be controlled by an Environmental Permit, an exemption or DoWCoP

Consequently,

Probably every developer is working illegally



How the NQMS can help expedite developments

Benefits



Projects where the land contamination work is done “right first time”:

- Clients/Developers will incur less costs
- Planning applications will be subject to less delay
- Less Regulator time – efforts focussed on high risk & poor quality submissions

Objective of NQMS

Developed by the National Brownfield Forum (industry and regulatory bodies including HBF), the NQMS is designed to ensure that the standard of land contamination management work meets the requisite legislative requirements for compliance under:

- Town & Country Planning Regime
- The Part 2A Contaminated Land Regime
- Environmental Permitting Regimes

In summary, it improves quality and thus expedites regulatory sign-off



How it works

Reports are prepared, checked and signed off by a suitably qualified and experienced person (SQP) who ensures that:

- Work has been planned and undertaken by competent people
- Data has been collected, processed, analysed and interpreted in line with good practice and relevant regulatory advice/guidance
- Conclusions are substantiated by the underlying data
- Any limitations are clearly identified along with the implications



Competence of the team

The capability of the individuals collecting and processing the data within the teams are checked with reference to the “Brownfield Skills Framework”. <http://www.silc.org.uk/wp-content/uploads/2014/05/SiLC-LCSDF-2014-Version-2.pdf>

The Framework, provides a common basis for the description and measurement of the capability of individuals in terms of a combination of their knowledge and experience in a particular field.



Requirements for SQP

- Experienced Professional in field of land contamination
- Capable of assessing whether a document meets the requirements of the scheme
- Chartered person assessed by a professional body & bound by code
- Experienced with good overview of requirements
- Capable of recognising own limitations and knowing when specialist skills required
- Aware of regulatory requirements
- Undertake CPD



What the SQP does

The SQP will use their experience to ensure that any conclusions set out in a report are fully substantiated by applying a series of audits/checks to the critical decisions that have been made under the CLR11 process

The SQP must be satisfied that the conclusions are reasonable*

* “based on using good judgement and therefore fair and practical”

– Cambridge Dictionary



Examples of questions the SQP may ask

Risk Assessment:

- *Have appropriate assessment criteria and tools been selected*
- *Are the number, nature and location of samples, proposed testing and monitoring regimes sufficient*

Options Appraisal:

- *Have appropriate remedial objectives been identified including (where relevant) remedial target concentrations and compliance points?*

Remediation:

- *Is there sufficient evidence to demonstrate that remediation is complete and has fulfilled the remedial objectives.*



The biggest question of allhow much?

£75 + vat per declaration which is per report

NQMS Declaration Reference: 1016-A0567
NQMS SGP Declaration of Document Adequacy

NQMS SGP Declaration of Document Adequacy

Project
Project Name N/A
Project Address N/A
NQMS Declaration Reference 1016-A0567

Summary Description of Project / Proposed development
N/A

Document
Document Title N/A
Document Type N/A
Document Reference N/A
Document Date N/A
Document Author / Publishing Organisation N/A
Named Client N/A

Contact Details

Local Authority Details
Local Authority Name N/A
SGP Registration No. SGP1235
Telephone N/A
Email nicola.harnes@claire.co.uk
Organisation N/A
Address ...

Regulator Details
Regulator ea
Contact Name N/A
Contact Telephone N/A
Contact Email N/A
Contact Role N/A

SGP Details
SGP Name Nicola Harnes
SGP Registration No. SGP1235
Telephone N/A
Email nicola.harnes@claire.co.uk
Organisation N/A
Address N/A
Chartered or Professional Institution N/A
Chartered or Professional Institution Membership Reference N/A

Declaration

I, Nicola Harnes, confirm that I am the person described in the SGP Details section and hold current valid registration as a Suitably Qualified and Experienced Person Registration No. SGP1235 with the NQMS.

I have reviewed the document described in the Document Details section, in relation to the project and site described in the Site Details section, and I am satisfied that:

- The work has been carried out by appropriately capable people with reference to the Brownfield Skills Framework.
- That the work carried out is, to the best of my knowledge, undertaken with reasonable skill and care, and the information and data reported:
 - describe an appropriate scope and objectives and
 - accord with relevant good practice guidance and standards and
 - are based upon appropriately robust science and
 - are factually correct and
 - have been appropriately reviewed.
- That all specialist aspects have been reviewed by an appropriately qualified/competent person with relevant skills and experience in that specialist area.
- That the interpretation and conclusions are reasonable.
- That proposals to mitigate actual potential or residual risks are appropriate.
- I am competent to sign this Declaration and that
 - I am fully aware and comply with the Code of Conduct of NIA through which I hold Chartership N/A.
 - The work of this review and Declaration are within the limits of my knowledge, competence and professional capacity.

Note: The document that has been reviewed was prepared by the organisation named for the benefit of the named Client who has reliance upon it. Any professional liability arising from any proven negligent act or omission by the Company carrying out the work and publishing the document rests with that Company and not with the SGP or the NQMS.

Signed: _____
Date: _____
Name: _____
1016-A0567

Current position

NQMS launched January 2017

- 94 SQPs
- 51 declarations submitted
- EA updated their position statement in November 2017 referencing their support and also referencing in their recent GP3 guidance, MHCLG & Defra also support in principle
- <https://claire.co.uk/projects-and-initiatives/nqms>

In our experience, use of the NQMS has facilitated regulatory sign-off of long outstanding planning conditions relating to contamination

In summary

Concluding remarks

Getting the work done right the first time around saves time and money

Be proactive during project design phases with respect to earthworks to maximise revenues

Avoid illegal waste operations by using CL:aIRE DoWCoP

- Register the MMP that must have been signed by a Qualified Person
- Prepare the verification report post completion of materials re-use

The future

Extension of accreditation schemes

- Brownfield skills matrix being extended to cover gas verification

Demonstrating net environmental gain

C4SLs are new soil screening criteria protective of human health

Questions and answers



SAFEGUARDING YOUR
BUSINESS ENVIRONMENT