



ACE Environmental Risk

Premises Pollution Claims Scenario

Historical Liability as part of a housing stock transfer

Scenario: A housing stock transfer was undertaken between a Local Authority in North West England and a private management company involving approximately 7,000 residential units. A problem emerged when unusually high levels of lead, arsenic and zinc were discovered on land surrounding multiple residential premises. Tests were carried out in the grounds of the properties and it became apparent that the properties had been built on land primarily used as a chemical dump from the early 1900s to 1960s by a company still operating in the area. A class action was brought against the Local Authority by residents, alleging health risks and diminishing property values.

Product: The Local Authority had purchased a Premises Pollution Liability (PPL) policy for pre-existing pollution conditions relating to the housing stock transfer as a contingency to the indemnity offered by the private management company. This 10-year policy provides an incident limit of £5 million a policy aggregate of £10 million and a self-insured retention (SIR) of £50,000. The policy was designed to respond to unknown pollution conditions arising prior to inception of the policy.



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Claims Management: The insurance company provided legal support to the Local Authority and relocated residents perceived to be at risk from the presence of contamination. Significant investigation works were undertaken to assess the extent of the problem. A combination of remediation, compensation and relocation of residents was eventually achieved and paid for by the original polluter. Although the liability was not deemed to ultimately lie with the Local Authority, significant costs were incurred in demonstrating this, which were paid for by the insurer. They were eventually able to recover these costs by means of subrogation against responsible parties, including the previous landowner and the developer. In addition, the Local Authority was able to recover the £50,000 SIR from the former landowner.