

THE GEOLOGICAL SOCIETY OF LONDON

CONSULTATION RESPONSE TO

CONSULTATION QUESTIONNAIRE ON

NATIONAL QUALITY MARK SCHEME FOR LAND AFFECTED BY CONTAMINATION

The Consultation Response is to be completed online from the CL:AIRE Land Forum website link:
www.claire.co.uk/qmlc-consultation

Questions are in **Bold** below

Proposed answers are in *Italics*

Final submission on behalf of GSL to be submitted by Nic Bilham

Question 1. Which of the following categories best describes your role with regards the assessment and management of land contamination (choose 1 or more):

- **Landowner/Developer**
- **Planning officer**
- **Contaminated land officer**
- **Consultant**
- **Contractor**
- **Environmental Regulator (EA, SEPA, NRW, EA NI)**
- **Other (please state) - Professional Body and sponsor of Specialist in land Condition Register & Register of Ground Engineering Professionals –The Geological Society of London (GSL)**

Question 2. Are you in favour of such a scheme being instigated? Yes/No. If not, why not?

YES but subject to the provisos set out in subsequent questions.

Question 3. Role dependent questions:

Will make no difference

Question 4. Do you agree with the proposed minimum requirements for the Suitable Qualified Person ? (Yes/No). If not, what should be added/removed/modified?

Note that the following bullet points in Section 4.3 of the consultation document are not required because these items are already covered by being a professionally chartered person and do not need to be re-stated:

- *“Capable of recognising their own limitations and those specialist skills required of others in a multidisciplinary industry*
- *Aware of the requirements of the regulatory regimes under which the work is being undertaken.*
- *Bound by their professional bodies to undertake continuing professional development (CPD) and hence maintain awareness of changing legislation, guidance and standards.”*

NO

The minimum requirements set out in Section 4.3 are not sufficient. The SQP will need significantly more experience than someone who has recently gained professional chartership and the attributes listed in Section 4.3 would apply to any chartered person including those who have only just gained professional chartered status.

It would be better to set out that the SQP needs to meet either Level 4 or Level 5 of the Brownfield Skills Development Framework. There were differing views amongst the experienced professionals who have been involved in preparing this response on behalf of the Geological Society as to whether the minimum level for a SQP should be Level 4 or Level 5, but the majority view was that this should be set at Level 5.

Consideration should be given to aligning the SQP with other development industry schemes:

- A minimum number of years of continual professional practice post-chartership could be stipulated, say a minimum of 5 years. This would be same as the QP under CL:AIRE CoP and could be aligned with other development industry professionals such as RoGEP Specialist; or*
- a greater length of experience could be stipulated, say about 10 years (which would align with RoGEP Adviser).*

There were differing views among those involved in preparing this response as to whether a minimum length of post-chartership experience should be required (and, if so, how long this should be); or whether it would be more appropriate to define this post-chartership experience only in terms of skills and attributes, such as those set out in the Brownfield Skills Development Framework, rather than specifying a period of elapsed time. We would be pleased to discuss further both this matter, and the question of whether Level 4 or Level 5 is the more appropriate minimum requirement.

The Geological Society thinks that in order to have a sufficient experience to be a SQP the person will need to have more experience than someone acting as a QP under the CL:AIRE CoP, which covers a much narrower and less technically onerous area, so this should be the absolute minimum amount of experience that is required for a SQP.

Question 5. In your view, are there any existing schemes that can be used to demonstrate that the minimum requirements for the SQP have been met for an individual? (Yes/No). If yes, list what these are?

YES

SiLC.

The RoGEP system also covers Contaminated Land and with minor modifications could also be used to demonstrate the minimum requirements for SQP:

- *RoGEP Advisors who have the required specialisms in Contaminated Land should easily be able to demonstrate attainment of Level 5 of the Brownfield Skills Development Framework.*
- *RoGEP Specialists who have the required specialisms in Contaminated Land should be able to demonstrate attainment of Level 4 of the Brownfield Skills Development Framework. (See discussion of differing views regarding the appropriate level in response to question 4.)*

Chartered status (CGeol, CEng, CSci, CEnv), together with minimum 5 or 10 years relevant post-Chartership experience and 5 or 10 years of relevant CPD records, can be regarded as an 'existing scheme' demonstrating that minimum requirements for the SQP have been met. (See discussion of differing views as to the required minimum level of experience in response to question 4.)

Question 6. In your view, are there any existing organisations that could administer such a scheme? (Yes/No). If yes, list what these are?

SiLC & RoGEP.

Question 7. For consistent operation of the scheme, is it necessary to link the scheme to any specific standards and/or guidance documents (Yes/No) and if so what do you consider these to be?

No, linking the scheme to specific standards is too prescriptive and unnecessary.

Question 8. Do you agree with the list of key aspects of reports that need to be audited as part of the scheme? (Yes/No). If not, what should be added/removed/modified?

No- May also need to see Remediation Implementation & Monitoring Plan. If this is to be of any use to the industry and to customers, the scheme definitely needs to include remediation strategy, remediation specifications, remediation verification reports, and long term monitoring and maintenance reports.

Question 9. Does the declaration have sufficient information/statements? (Yes/No). If not, what should be added/removed/modified?

No – Add name and address of Environment Agency after Item 5

Question 10. Taking into account the proposed complaints procedure that has been outlined, do you think that a specific (non-technical) scheme audit system is required in addition to any other audit systems operated by regulators or companies?

No

We have major concerns about the complaints procedure. It is heavy-handed and written as if the SQP will in effect be treated as members of a Regulated Profession personally liable to sanctions in the event that there is evidence of shortcomings in the documented output of the SQP. This should not be the case given that the chartered bodies such as GSL, ICE etc do not regulate the professions in this way in UK. Such a procedure also places a liability on the individual which is not covered by the employer's professional indemnity insurance, as PI insurance is a form of corporate liability protection. The Geological Society can only endorse the SQP scheme basis and scope if the liability of the SQP is similar to the QP system under CL:AIRE CoP. Note that if a Chartered Professional has acted outside their profession's Code of Practice a complaint can be made to the professional body and this should not be changed to add another level of individual liability.

Clarification and additional comments - Please provide clarification to any of your answers in the box below (referencing the question number) or add any further information that you feel would be useful for the development of the National Quality Mark Scheme for Land affected by Contamination

Overall we welcome the aims of the National Quality Mark Scheme for Land affected by Contamination in that it requires professionally chartered and experienced personnel to review and sign off the work completed. However, in some ways the scheme has over-complicated the issues and in others it has not gone far enough. It is not clear what problems the Scheme is seeking to address.

Over-complication

In many ways the Scheme has over-complicated the issue and there has been insufficient thought about existing professional qualifications (Chartership; SiLC; RoGEP) and how these could be better used or indeed changed rather than propose adding another quasi-professional qualification. There are effectively two possible ways forward:

- 1) All of the bodies awarding chartered status should be able to endorse individuals as SQPs on basis of background, experience, chartered status and a minimum of say 5 or 10 years of relevant professional practice*
- 2) Use SiLC and/or RoGEP: Question 12.8 of the FAQs does allude to the fact that the SiLC Register provides a list of "Capable" individuals but the document states that the "QMLC scheme goes well beyond accreditation of an individual in relation to a specific subject area and imposes specific tasks." We are concerned that if the QMLC scheme is taken "well beyond...." it would potentially only be open to only a handful of individuals or dozens of the sector under this approach, which we think is counter-productive and risks repeating the fundamental mistake which SiLC made in the first place, of trying to "kite-mark" a small band of senior practitioners on the basis of a very narrow area of practice, namely the Land Condition Report (which is little used anyway).*

The Geological Society believes that the SiLCs should already have all of the required technical skills (other than possibly remediation auditing and verification) and are independently examined and audited. We ask, therefore, why an entirely new scheme is needed. We believe that all that is required is a modification to the existing SiLC and RoGEP schemes. All existing SiLCs and RoGEP members with the requisite specialisms would need to go on a short (one day) course to train them on the specific requirements of auditing and verification. We suggest that a day's training similar to CL:AIRE CoP should be sufficient. All newly applying SiLCs should then have the auditing and verification training included within their SiLC training and examination. Similar modifications would be required for RoGEP.

Use of modified existing professional competency schemes would provide a simpler long term solution to the need for suitably qualified personnel to act as a SQP and would reduce the growing number of qualifications in the professional area of contaminated land. The Quality Mark Scheme documentation could then be radically reduced, as all that would be required is a relatively short document to the effect that the requirement is to "use a SiLC or RoGEP LEVEL 4 or 5 or chartered

professional with at least 5 or 10 years post-chartership experience in an independent role to sign off reports which comply with appropriate legislative requirements connected to the management of land contamination.”

The development industry needs more debate as to whether 5 or 10 years post-chartership is enough. Overall, SQP should have a higher status than acting as a QP under CL:AIRE CoP, although other professionals would like to see SQP and QP under CL:AIRE CoP at a similar level.

The Geological Society thinks that the Quality Mark Scheme adds an extra complication and an additional qualification which is unnecessary when all that is required is a relatively simple amendment to the SiLC scheme, RoGEP scheme and endorsement system for other chartered professionals holding at least 5 or 10 years of relevant post-chartership experience.

Not Gone Far Enough

This document could have gone further to raise the required professional standards and could also have been broadened in its scope to set out who should be considered “competent” as defined in the NPPF:

Clause 212 of the NPPF (2012) requires that “adequate site investigation information, prepared by a competent person, is presented.”

Annex 2 Glossary provides the following definition of Competent Person (to prepare site investigation information):

“A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.”

As noted above, the Geological Society thinks that more experience is required than just being professionally chartered to act as “competent” person. An appropriate level of experience would be professionally chartered plus five years relevant experience (similar to the RoGEP Specialist or CL:AIRE QP scheme). Therefore it would be good if there were two levels of SiLC accreditation (again using the RoGEP analogy):

- 1. SiLC Specialist – Act as Competent Person on “dealing with the type(s) of pollution” with this person also being able to act as a CL:AIRE QP (a RoGEP Specialist or Adviser would be able to act as a Competent Person in “dealing with land instability”).*
- 2. SiLC Adviser (i.e. the current SiLC level) – Act as SQP (when they have audit and verification training) plus the existing role of signing off LCRs.*

Summary

The introduction of the SQP should be taken as an opportunity to update SiLC and not to introduce a new range of qualifications. The proposal for the National Quality Mark Scheme for Land

affected by Contamination has over-complicated what the industry requires, but has not adequately addressed the issue of “Competent Person.” It is the opinion of the Geological Society that the proposed scheme should be revised to incorporate the requirements for defining both the “Competent Person” and the SQP and that this should be via an amended SiLC scheme (and RoGEP where appropriate).

The Geological Society notes that the SiLC Register scheme was designed to support the use of the Land Condition Record (LCR), launched by the Urban Task Force in 1999 and to recognise the skills of those working in the broader land condition sector. It now provides a wider recognition of competence in the land condition field, but the LCR remains as a working tool. The SiLC board should use this as an opportunity to expand and modernise SiLC to make it more relevant because many practitioners do not see the relevance of the LCR (neither do developers, land owners and regulators) and the proposed changes would rejuvenate SiLC and help it gain wider uptake.

We note that some of the points raised here are for SiLC (and possibly RoGEP) to act on, rather than to be addressed by the Land Forum under the terms of the present consultation. We will provide a copy of our remarks to the SiLC TPT and the RoGEP board, particularly so that they can address the matter of the definition of Competent Person regarding dealing with land instability, in accordance with the NPPF.