

# Environmental Liability

## Pollution – it could be your problem

Environmental pollution is a hot issue and businesses have to take great care not to pollute the neighbourhood or the atmosphere. Seepage of oil from tanks, the growing practice of building on brown field sites, the polluting of rivers and streams due to escape of effluent and disposal of waste are all issues that businesses have to face with growing vigilance but the insurance position is not straightforward.

Pollution can:

- Be sudden and unforeseen, resulting from an identifiable event or accident.
- Be gradual and happen over a period of time.
- Affect neighbouring property.
- Affect a business's own land.
- Already exist in property or buildings purchased.
- Be active, i.e. causing damage now.
- Be passive but likely to result in damage later.

Liability under the Law has been extended so that someone has to pay not only for any damage caused by pollution but also the clean up costs for active or passive pollution. This may be irrespective of who is to blame. The polluter must pay and current owners of property may well find that they have a liability for pre-existing contamination even though they did not cause it. Land that is contaminated or businesses with a risk of liability for pollution are difficult to sell.

Public Liability policies are likely to cover businesses against sudden and unforeseen pollution traced to a specific event. It will also probably cover liability for cleaning up the pollution on third party land. It does not cover gradual pollution such as seepage, nor does it cover clean-up costs on a business's own property.

To provide full protection, a special insurance called "Environmental Impairment Liability" cover is required. This is only available from a few insurers and requires an appraisal of the inherent risks and how these are managed. Any property owner or business needs to consider if this wider cover is appropriate for them. We are happy to provide any advice if required.



### Need to know more?

For more information contact Colin Bailey or Andrew Milverton on 0118 940 6175 at Cassey Miller James today.

Details of our offices and telephone numbers can be found on our website at [www.cmj.co.uk](http://www.cmj.co.uk)