

Commercial Waste

A GUIDE TO YOUR LEGAL RESPONSIBILITIES

DUTY OF CARE



This is useful information to help you when it comes to disposing of your business waste.

Every organisation and business has a duty of care (a legal responsibility) for the waste they generate.

Section 34 of the Environmental Protection Act 1990 (EPA 1990) requires that you:

Store your waste securely so it does not cause litter or attract vermin



Ensure your waste is transferred to an authorised collector such as a reputable waste contractor



Complete a waste transfer note for any transfer of waste and retain a copy of this note for two years



Ensure that if moving your own waste to private disposal facilities that you are appropriately registered with the Environment Agency.

Visit: gov.uk/waste-carrier-or-broker-registration for more information



Isn't the cost of waste collection and disposal included in my business rates?



No. The collection of your business waste is not included in your business rates. Businesses must contact a waste management company directly to arrange for the collection and disposal of their waste

Working for private households

If your business carries out work at a private household (e.g. building or gardening), any waste you produce is classed as business waste and you must treat it as such.

Home-based businesses

If your business is home-based, any waste you produce in the course of your work is classed as business waste. You must keep it separate from your household waste and treat it as business waste.

Who can collect my business waste?

There are providers that can be contacted to arrange the collection and disposal of your business waste. If you are using such a company to move or dispose of your waste, then you need to ensure that they are either a registered or exempted waste carrier. You can check their certificate of registration directly or with the Environment Agency by visiting: gov.uk/guidance/access-the-public-register-for-environmental-information

If you want to transport your own business waste to or from any place in the United Kingdom you will generally need to be registered as a waste carrier. It is an offence to carry waste without being a registered waste carrier. Doing so can lead to a fixed penalty notice or prosecution.



Can I use the Household Waste Recycling Centres or street recycling and litter bins to dispose of my waste?

No. These facilities are not for the disposal of waste generated by your business. If you use the facilities for your waste then you are not complying with your legal duty of care and could face a fine or prosecution.

Enforcement

Failure to comply with the Duty of Care requirements is a criminal offence and could lead to prosecution.

Enforcement action can be taken against anyone not meeting the duty of care requirements. Failure to comply with the EPA 1990 will result in a fixed penalty being issued. For more serious cases, prosecution can result. If another person takes your business waste from you and is not authorised to do so, or if your waste is illegally disposed of YOU could be prosecuted and fined if you have not taken all reasonable measures to meet your duty of care obligations.

Waste management officers will undertake spot checks to ensure local businesses are complying with their legal responsibilities. Businesses that cannot demonstrate compliance will be issued with a fixed penalty notice.

A transfer note describing the waste quantity and type, and its transfer, must be filled in and signed by both persons involved. Failure to provide evidence of waste transfer notes can result in a



FIXED PENALTY NOTICE OF £300

or the payment of an

UNLIMITED FINE

if you are prosecuted in a magistrate's court. Unlimited fines can be imposed if the case goes to Crown Court.

If you are producing business waste, you must:

Use a private waste company or facility to dispose of your waste – do not use household waste recycling centres (these are for household waste and depositing business waste at these sites is a criminal offence)



Check that any company or person moving your waste has a waste carrier's licence



Describe the waste in writing (waste transfer note)



Do not put out or mix your business waste with your household waste



Register for a Waste Carrier's Licence if moving your own waste or someone else's



Keep all related paperwork for a period of two years



Some waste carriers are only registered for certain kinds of waste or activities – check that their certificate covers your type of waste.

The duty of care regulations also require that waste is stored safely and securely. To avoid a fixed penalty notice, please store your waste appropriately and prevent it from escaping. When it is stored, care must be taken to prevent:

Corrosion or damage to containers

Spillage and leaks

Access by unauthorised persons

Scavenging by animals

My business does not produce any waste. What should I do?

All businesses produce waste including:

- Post and junk mail
- Damaged, or old equipment
- Packaging from deliveries
- Food and drink eaten by staff and packaging (for example tea bags, crisp packets, drinks cartons, etc.)
- Cleaning materials
- Office paper



Regardless of the amount you produce, you must still dispose of it legally

Can I take my business waste home with me for recycling or disposal?

No. Taking it home, or asking staff to do so does not meet the requirements of your duty of care. Recycling and waste produced during business activities cannot be mixed with household waste and must be disposed of separately.

Please note: This guide is only an introduction to duty of care requirements. It cannot be relied upon as legal advice. For further information please contact the Environment Agency, or visit:

rightwasterightplace.com

or **gov.uk** (search for business and commercial waste).

Thank you

Thank you for ensuring that you are meeting your duty of care responsibilities. With your support we can make sure that everyone enjoys a pleasant, safe and clean town.