

Waste – Duty of Care

What it means

The duty of care is a law which says that you must take all reasonable steps to keep waste safe. If you give waste to someone else, you must be sure they are authorised to take it and can transport, recycle or dispose of it safely.

If you break this law, you can be fined an unlimited amount.

Does it affect me?

The duty of care applies to anyone who produces or imports, keeps or stores, transports, treats or disposes of waste. It also applies if you act as a broker and arrange these things.

What is waste?

It can be anything you own or produce, and you want, or are required to get rid of.

What is controlled waste?

It is household, commercial or industrial waste. It can be from a house, school, university, hospital, residential or nursing home, shop,

office, factory or any other trade or business. It may be solid or liquid, scrap metal or a scrap car. It does not have to be hazardous or toxic to be a controlled waste.

What about household waste?

If the waste comes from your own home, the duty of care does apply to you in certain circumstances. If you are a householder, please see Box C below for more details on what to do. If the waste is not from the house you live in – for example if it is waste from your workplace, waste from someone else's house or from your or someone else's business – the duty of care applies to you entirely as set out below.

How do I know what to do?

The law says you must take all reasonable steps to fulfill the duty and complete some paperwork. What is reasonable depends on what you do with the waste.

The Government has issued practical guidance on what is reasonable in different cases. This is in a Code of Practice (see "Further Advice").

Steps to take if the duty of care applies to you

When you have waste

The law says you must stop it escaping from your control. You must store it safely and securely. You must prevent it causing pollution or harming anyone. **First**, make it secure. Keep it in a suitable container. If you put loose waste in a skip or on a lorry, cover it.

Second, if you give waste to someone else, check they have authority to take it. The law says the person to whom you give your waste must be authorised to take it. Box A (below) explains who is allowed to take waste and how you can check.

Third, you must describe the waste in writing. You must fill in and sign a transfer note for it. You must keep a copy of the transfer note. To save on paperwork, you can write your description of the waste on the transfer note. See Box B (below).

When you take waste from someone else

First, you must be sure the law allows you to take it. Box A (below) explains who is allowed to take waste.

Second, make sure the person giving you the waste describes it in writing. You must fill in and sign a transfer note. You must keep a copy of the transfer note. See Box B (below).

What to do if something is wrong

If you suspect that someone is breaking the law, do not give waste to them or take waste from them. Tell your local authority or the Environment Agency (England and Wales) or the Scottish Environment Protection Agency (Scotland). The Environment Agency's Enquiry Line is 08708 506506.

Further advice

This leaflet is only an introduction to the duty of care. It cannot be relied on as legal advice. Practical guidance for everyone who is under the duty is in "**Waste Management, The Duty of Care, A Code of Practice**", ISBN 0-11-753210-X, published by the Stationery Office and available from their bookshops or by telephoning 0870 600 5522.

Further free copies of this leaflet are available on the Defra website at <http://www.defra.gov.uk/environment/waste/legislation/pdf/dutyofcare-summary.pdf>

Box A

Who has authority to take waste?

Council waste collectors

You don't have to do any checking, but if you are not a householder, you will have to complete some paperwork. This is explained in Box B.

Registered waste carriers

Most carriers of waste have to be registered with the Environment Agency or the Scottish Environment Protection Agency. To be sure that you are giving waste to a registered carrier, look at the carrier's certificate of registration or check with the Environment Agency. Alternatively, you can access a list of registered waste carriers at: <http://www2.environment-agency.gov.uk/epr/search.asp> .

Holders of waste management licences

Some licences are valid only for certain kinds of waste or certain activities. Ask to see the licence. Check that it covers your kind of waste.

Businesses exempt from waste management licences

There are exemptions from licensing for certain activities and certain types of waste. For example, the land treatment of

specified industrial wastes for agricultural benefit or ecological improvement. Exemptions only apply if they comply with the general rules of the exemption and do not harm the environment or human health. Most exempt businesses need to register their exemption with the Environment Agency or the Scottish Environment Protection Agency. You can check with the Agencies that their exemption is registered.

Authorised transport purposes

You can also transfer waste to someone for “authorised transport purposes”. This means:

- the transfer of controlled waste between different places within the same premises;
- the transport of controlled waste into Great Britain from outside Great Britain; and
- the transport by air or sea of controlled waste from a place in Great Britain to a place outside Great Britain.

Registered waste brokers

Anyone who arranges the recycling or disposal of waste, on behalf of someone else, must be registered as a waste broker. You can check with the Environment Agency or the Scottish Environment Protection Agency that the broker is registered.

Exempt waste brokers

Most exempt waste brokers need to register with the Environment Agency or the Scottish Environment Protection Agency. Those who are exempt are mainly charities and voluntary organisations. If someone tells you they are exempt, ask them why. You can check with the Environment Agencies that their exemption is registered.

Box B

Filling in paperwork

When waste is passed from one person to another the person taking the waste must have a written description of it. A transfer note must also be filled in and signed by both persons involved in the transfer.

You can write the description of the waste on the transfer note. Who provides the transfer note is not important as long as it contains the right information.

The Government has published a model transfer note with the Code of Practice which you can use if you want.

Repeated transfers of the same kind of waste between the same parties can be covered by one transfer note for up to a year. For example, weekly collections from shops.

The transfer note

The transfer note, to be completed and signed by both persons involved in the transfer, must include:

- What the waste is and how much there is, including the European Waste Catalogue number.
- What sort of containers it is in.
- The time and date the waste was transferred.
- Where the transfer took place.
- The names and addresses of both persons involved in the transfer.
- Whether the person transferring the waste is the importer or the producer of the waste.

- Details of which category of authorised person each one is. If the waste is passed to someone for authorised transport purposes, you must say which of those purposes applies.
- If either or both persons is a registered waste carrier, the certificate number and the name of the Environment Agency which issued it.
- If either or both persons has a waste management licence, the licence number and the name of the Environment Agency which issued it. have a licence.
- The reasons for any exemption from the requirement to register or have a licence.
- Where appropriate, the name and address of any broker involved in the transfer of waste.

The written description

The written description must provide as much information as someone else might need to handle the waste safely. It must describe the waste by reference to the appropriate 6 digit code/s in the European Waste Catalogue (EWC). The EWC provides a more precise method of identifying the type of waste by listing waste types according to the process or industries from which they arise. The requirement to refer to the code is contained in the Landfill Regulations 2002. For further guidance about the use of EWC codes, please contact your local Environment Agency office.

Keeping the papers

Both persons involved in the transfer must keep copies of the transfer note and the description of the waste for two years.

They may have to prove in Court where waste came from and what they did with it. A copy of the transfer note must also be made available to the Environment Agency, Waste Collection Authorities or the Scottish Environment Protection Agency if they ask to see it.

Box C

Household Duty of Care

If you are a householder and you are passing waste onto someone who is not the dustman or the local council, you are now under an obligation to check that the person you are handing your waste to is authorised to take it. If you are not sure whether someone is authorised you can check this with your local Environment Agency office or check online at <http://www2.environment-agency.gov.uk/epr/search.asp>