



Commercial Waste Duty of Care: a brief guide to legal disposal

PLEASE NOTE: This leaflet is only an introduction to Duty of Care requirements and is not legal advice. For further information please visit the [Government website \(www.gov.uk\)](http://www.gov.uk).

Your Duty of Care starts the moment you produce the waste and continues when you give it to a waste management company or waste carrier to deal with until it is recovered or disposed of.

The Duty of Care laws apply to all waste and recycling materials produced from business activity. This covers every type of business, from shops to services, property landlords to house clearers and decorators to gardeners. If you are paid to undertake work for someone else you are responsible for any waste created.

How does a business comply with their Duty of Care?

Section 34 of the Environmental Protection Act 1990 requires all businesses to:

- Store** Sort and store waste properly and safely so that nothing can escape (litter, liquids or odour), and other people cannot access it.
Hazardous waste (including batteries, chemicals, oils, healthcare and electrical items) and non-hazardous materials must always be kept apart.
Bins must be stored on private land, not the public highway.
- Dispose** Ensure safe transportation, by you or a contractor, to a registered waste disposal facility, which must provide a Waste Transfer Note (or equivalent) on receipt of your waste. The transporter must have a Waste Carrier Licence
- Record** Keep all Waste Transfer Notes and/or invoices for 2 years, and Consignment Notes for hazardous waste for 3 years. Failure to produce these documents could result in prosecution and an unlimited fine.

How can I dispose of business waste?

Get a trade waste contract

- You can pay for trade waste contract for the collection of your waste. They may provide you with a bin, sacks, or a skip for storage depending on how much waste you have.
- Obtain Waste Transfer Notes for the disposal of your waste. This may be issued annually or for each collection.
- Check they have a Waste Carrier Licence either by obtaining a copy from them or check with the Environment Agency that your contractor is licenced.

Dispose of it yourself

- If you wish to transport waste from your own business to an authorised waste transfer station or return packing to a wholesaler, you must have a valid Waste Carrier Licence or exemption.
- A licence can be obtained from the [Environment Agency website \(www.gov.uk/waste-carrier-or-broker-registration\)](http://www.gov.uk/waste-carrier-or-broker-registration). This is usually free if you are only transporting your own business waste.

You cannot use household waste services such as the kerbside collections, litter bins, recycling banks or household waste recycling centres for business waste.

Failure to comply with Duty of Care laws may result in prosecution and an unlimited fine.

What if my business doesn't produce any waste?

It is highly unlikely that a business produces no waste at all – post, junk mail, damaged or obsolete equipment, packaging from deliveries, food and drink consumed by staff (and its packaging), cleaning materials and office paper, are all classed as business waste. Regardless of the volume you produce, you must still dispose of it legally.

Isn't my waste collection included in business rates?

NO, waste collection is not included in business rates. You must make your own arrangements.

I run my business from home – can I put my business waste in my household bin?

Any waste produced by a separate business area to your home e.g. a converted garage, must be separate from household waste and disposed of as outlined in this leaflet. If you use part of your home for your business, some of the time but also then use for domestic living e.g. a childminder you can use your household bin collection service provided it does not exceed the capacity of your bin.

Can I take my waste to a Household Waste Recycling Centre?

NO, this is classed as fly-tipping under Duty of Care laws and you may be prosecuted or fined.

Where can I dispose of waste myself?

You can take your waste to a waste transfer station. You will need to contact them prior to your visit to set up an account as you will be charged. Remember, you need to obtain a Waste Carrier Licence before transporting your waste.

What records are required?

You must keep 'Waste Transfer Note' or provide some form of receipts showing:-

- Where you disposed of the waste (tip location) and when it was tipped (date)
- How much of it there was (weight)
- What waste was tipped (type)

Where can I get a Trade Waste Contract?

Many companies offer trade waste collections and they can be found by an internet search. Erewash Borough Council also provide a trade waste collection service. For more information please call our customer service advisors on 0115 907 2244 or email waste@erewash.gov.uk.

Who will check what I do and what if I can't produce any waste documents?

Authorised Officers of the Council can request copies of waste transfer notes or a document with the same information e.g. an invoice. Failure to provide this information may result in the issue of a fixed penalty notice of £300 discounted to £180 if paid within 14 days.

If your waste is discovered in a domestic waste stream, litterbin or fly-tipped you can be investigated for illegal waste activity.

Enforcement

If another person takes your waste and is not authorised to do so, or it is disposed of illegally, YOU could be prosecuted and fined if you have not taken all reasonable measures to meet your Duty of Care requirements. If you are concerned that the company or person collecting your business waste may be breaking the law, stop giving them your waste and report it immediately by emailing n.warden@erewash.gov.uk.

Erewash Borough Council

Environmental Health, Merlin House, Merlin Way, Ilkeston, Derbyshire DE7 4RA

Tel 0115 907 2244 ext 3820 Email environmentalhealth@erewash.gov.uk

Visit Erewash Borough Council's website (www.erewash.gov.uk)