

Commercial Waste Duty of Care -

Are you disposing of your waste legally?

If you operate any form of business, you have a legal responsibility under the Environmental Protection Act 1990 and other related legislation to safely contain and legally dispose of any waste produced from your business.

If you do not comply, you may be taken to court, as you will be committing offences. Please note that your business rates do not include the cost of your business waste disposal.

The law also applies to anyone working from home such as waste generated from garden clearances, packing, delivering, crèche or child minding, small businesses, offices, hairdressers, sun bed shops, second hand shops to name but a few. In fact it applies to all rubbish generated by anyone, although there are a few exceptions for householders disposing of their own household waste (not anyone else's).

Examples of waste:

Anything whatsoever that is no longer required such as old mail, cleaning products, food eaten on your premises, cardboard, plastics, sweepings, damaged goods that cannot be returned, etc. This waste is known as commercial waste or business waste. The official name is 'Controlled Waste'.

There are a number of options that you can choose to manage your controlled waste.

Option 1—dispose of your own waste

You must be able to provide documents called 'Waste Transfer Notes' or provide some form of receipts showing:

- Where you disposed of the waste (tip location)
- How much of it there was (weight)
- And when it was tipped (date) and what waste was tipped (type)
- You may be able to take it to one of the Council's Transfer Stations however; you are advised to contact them prior to your visit to set up an account. You will be charged for this service
- Alternatively, you may take your waste to a privately run waste transfer station that can be found by doing an internet search

Option 2—have someone else collect and dispose of it for you

- They must be 'licensed waste carriers'
- You must have filled in a form commonly known as a 'Duty of Care' with your chosen contractor.
- You are advised to check with the Environment Agency that your contractor is licensed to carry and dispose of the types of waste that you are producing.
- You will be committing offences and can be prosecuted if you give your waste to anyone who is not licensed to carry and dispose of controlled waste.

Does the 'Duty of Care' apply to me?



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It applies to anyone who produces, stores, transports, treats and disposes of waste.

‘But my business does not produce any waste’ this is highly unlikely as trade waste includes:

- Post you get
- Food your staff eats or drinks on the business premises
- Damaged or scrapped items
- Floor sweepings
- Cleaning materials
- General waste that cannot be recycled
- Litter bin - This is also classed as business or commercial waste and it is an offence to take it home and place it in your domestic bin, or take it to a household waste recycling centre or to dispose of it any other way except in accordance with the Duty of Care.

You will have to prove to the courts that you do not produce any waste whatsoever. You can recycle a lot of commercial waste but it’s removal still needs to be legally documented with your chosen contractor.

What do I need to do?

- Make sure any waste you produce is safely stored in a suitable container. If waste is put in a bin or a skip, it needs to be closed and covered so the waste cannot escape or be interfered with.
- If it is put in your chosen contractor’s trade bags, keep them contained and do not put them out until your time of collection.
- Ensure that whoever collects your waste has the authority to do so. They must be registered with the Environment Agency.
- If it’s a one off or non-regular collection, a waste transfer note must be completed. If you have a regular waste contract collection, this will normally be found on the contract you signed with your chosen waste collector. This is sometimes known as a ‘Duty of Care Note’.
- If you dispose of your own waste, you must pay for the disposal and keep all your receipts and tipping notes for at least two years.

Penalties if you do not comply with your ‘Duty of Care’

- If you are found to be disposing of your waste illegally you may be prosecuted. The maximum penalty is a fine of £50,000 and up to 12 months imprisonment in the Magistrates Court and 5 years imprisonment and an unlimited fine at the Crown Court.

Why is a keeping record of your waste disposal important?

What happens if someone finds YOUR waste fly tipped—can you prove that YOU haven’t dumped it there and that you have complied with all the requirements detailed above? If you can’t you may be liable to a fine up to £50,000 and up to 5 years imprisonment. Failure to produce authority (waste transfer notes) can result in a £300 Fixed Penalty Notice

Bristol City Council officers are here to help prevent you committing offences. There are a number of misconceptions about trade waste that are important to understand



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The main misconception is that once the trade waste has been put out by a business in either bags or bins, as far as some are concerned, the waste is no longer their problem. This is completely incorrect and all producers of waste have a legal responsibility and duty for their waste until a legal waste carrier collects it.

Often bin lids are left wide open or unlocked, bins or bags are damaged, and waste is left on the floor because the contractor failed to collect it.

This is still your waste and you are liable for it. You must (by law) prevent the escape of waste by either yourselves or someone going through your waste, which is a common problem. You must ensure that your bin is secured at all times. You must also ensure you have the sufficient number of collections by your contractor to remove all of your waste and avoid it spilling out or to avoid your bin being overfilled

Trade Waste Bins

If you have trade waste bins and your contractor has not emptied your bin, contact them at once to collect as a matter of urgency. Do not under any circumstances continue to over fill the bin so that the lid cannot be locked or even worse, place waste at the side of the bin or in other people's bins.

Further misconceptions about business and trade waste

- "It was our cleaners or a new member of staff who didn't know"

This type of excuse is often used but in reality, it is the owners, occupiers and managers who have a legal duty for anyone they employ to ensure they know what to do with their waste. It certainly won't be the cleaner going to court.

The businesses' own staff or contractors failing in their duties cause most offences. This could be as simple as your staff not knowing the basic rules and procedures.

Make sure your staff are fully trained on waste disposal and waste management. If they deal with waste, they should know what to do with it and where it goes.

- "We share a yard or our rubbish was ok when we put it out"

You are still responsible for your own waste at all times and you must keep it tidy and secure. Check your waste regularly. Keep a look out for those people that make money from re-selling the contents of your bin or that may be looking for private and useful information.

Don't ignore that bin with the damaged wheel, the burnt out lid or the one with the lock missing. Get the contractor to change it. Keep your bin and your bin area clean. Put this on a staff rota for someone to check daily.

Trade bins are not to be stored on the highway, which includes the public footpaths. You must ensure that your trade bins are only on the highway for collection day/collection period. If your collection is missed you must remove your trade bin. Bristol City Council can take action under The Highways Act 1980, if you fail to comply.



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Bristol City Council – our powers and approach

- We are empowered to inspect your current waste contract and arrangements to ensure you have proper storage, sufficient space for your waste and the correct amount of collections avoid spillage onto the streets. More importantly, we will check your current waste removal practices to ensure that you are legally dealing with your trade waste. However if we find that waste removal arrangements are not adequate we will serve a Section 47 notice (Environmental Protection Act 1990). This notice sets out what the business needs to do to make acceptable provision, specifying the number and type of bins or waste containers required, along with the recommended number of waste collections needed to resolve the issue. Failure to comply can lead to prosecution and a fine of up to £1,000.

The Neighbourhood Enforcement team regularly visits businesses in Bristol to inspect waste management arrangements under the Environmental Protection Act 1990. If you do not have proof of legal waste disposal/storage for your business waste, please act now before it is too late.

If you are found without a legal means of waste disposal we can serve a legal notice upon you requiring you to do so or you may be prosecuted and fined up to £50,000 and up to 5 years imprisonment.

Please be aware we can also require sight of documents relating to your waste disposal going back 2 years.

Customer litter

If your customers drop litter outside your premises and that litter came from within your premises, it is your responsibility not only to remove it but also to provide adequate disposal facilities. If there is continuous litter or refuse on any land in the vicinity of a business, a notice under Section 93 of the Environmental Protection Act (a Litter Control Notice) may be served. This requires reasonable actions by the premise occupier to keep the area clean. Failure to comply with the request could lead to prosecution and a fine of up to £2,500.

In order to avoid being prosecuted or fined, ensure the outside of your business is kept clear of any litter or refuse by providing adequate litter bins and regularly sweeping around your premises.

Why are we doing this?

We are taking firm but fair enforcement action on those that are causing a detriment to the environment. Our actions range from tackling litter offences up to more serious offences of illegal disposal of waste.

We can't do this without your help and commitment. It is in all our interest to ensure we have a clean, safe and attractive city for all. Living and working in an attractive area encourages economic growth and financial investment from which all of us can benefit.

We want to work with you to ensure your waste arrangements are legal. If you require further information or help regarding your trade waste please contact the BCC Neighbourhood Enforcement on 9222100 or email neighbourhood.enforcement@bristol.gov.uk

