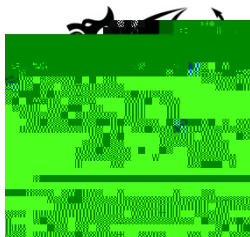




Waste Duty of Care Code of Practice

March 2016

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Contents

1. Overview.....	1
2. Scope of the duty of care.....	2
2.1 Duty of care: what it applies to.....	2
2.2 Duty of care: what it does not apply to.....	2
2.3 Duty of care: who it applies to.....	3
2.4 Waste holders: how long your duty of care lasts	4
3. Householders: waste duty of care requirements.....	5
4. Waste holders: waste duty of care requirements.....	6
4.1 Prevent unauthorised or harmful deposit, treatment or disposal.....	6
4.2 Prevent a breach of an environmental permit or a breach of a permit condition.....	7
4.3 Prevent the escape of waste	7
4.4 Transfer waste to an authorised person	8
4.5 Provide an accurate description of waste	9
4.6 Retention of waste documentation.....	11
5. Other waste laws for waste holders.....	12
Hazardous Waste.....	12
Producer Responsibility Regulations.....	12
Separate Collection	12
Landfill.....	13
Importing or exporting waste	13

1. Overview

The duty of care legislation makes provision for the safe management of waste to protect human health and the environment.

This code of practice (the Code) is issued under [section 34 of the Environmental Protection Act 1990](#) (the EPA). It sets out practical guidance on how to meet your waste duty of care requirements, but following the guidance does not replace your obligation to comply with the duty of care itself.

This Code applies to you if you import, produce, carry, keep, treat, dispose of or, as a dealer or broker have control of, certain waste in England or Wales.

Failure to comply with the duty of care is an offence subject to an unlimited fine on conviction. The Code is admissible as evidence in legal proceedings and its rules **must** be taken into account where relevant to questions raised in the case.

If your waste activities are authorised or registered in Scotland or Northern Ireland but you deal with waste in England or Wales, you need to follow this Code. You need to follow [Scotland's](#) and [Northern Ireland's](#) codes of practice if you operate across borders.

The regulators for the duty of care are the [Environment Agency](#) (EA) in England, [Natural Resources Wales](#) (NRW) in Wales and local authorities.

2. Scope of the duty of care

2.1 Duty of care: what it applies to

The duty of care requirements apply to household, industrial and commercial waste, also known as **controlled waste**.

Waste is any substance or object that the holder discards, intends to discard or is required to discard. The meaning of “discard” applies to “disposal” and “recovery” operations and processes and can be intentional or unintentional on the part of the holder. Whether a substance or object is waste is determined on a case by case basis. If you are unsure you can use the [‘legal definition of waste guidance’](#) to check if something is classified as waste.

The following definitions describe common waste operations and processes:

“Recovery” is any operation which has the main result of waste serving a useful purpose by replacing non-waste materials that would otherwise have been used to fulfil a particular function. An example is incineration for energy recovery (for further examples see [Annex II to the Waste Framework Directive](#)). Preparing for re-use and recycling are both recovery operations.

“Preparing for re-use” is the operation or process of checking, cleaning or repairing products that have previously been discarded so that they can be re-used without any other pre-processing, for example repairing bicycles, furniture or electrical or electronic equipment which have been previously discarded by their owners.

“Recycling” is any operation by which waste is reprocessed into products, materials or substances, whether for its original or other purposes, for example crushed waste glass graded for blasting or playground surfaces from waste tyres. (It does not include energy recovery or the reprocessing into materials to be used as fuels or for backfilling operations.)

“Disposal” is any operation which is not recovery (even where the operation has a secondary consequence of reclaiming substances or energy). An example is landfill (for further examples see [Annex I to the Waste Framework Directive](#)).

2.2 Duty of care: what it does not apply to

See Schedule 1 to the [Controlled Waste Regulations](#) to check if your waste is controlled

This Code does not cover the extractive waste duty of care. If you are responsible for managing waste from prospecting, extraction, treatment and storage of mineral resources and working quarries (extractive waste) under the EPA you are subject to different duty of care requirements.

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2.4 Waste holders: how long your duty of care lasts

3. Householders: waste duty of care requirements

As a householder, you have a duty to take all reasonable measures to ensure that any household waste produced on your property is only transferred to an authorised person.

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3. the description of the waste is accurate and contains all the information you are reasonably in a position to provide to ensure the lawful and safe handling, transport, treatment, recovery or disposal by subsequent holders, including:
- x [classification](#) of the waste by using the appropriate codes (referred to as the List of Wastes (LoW) or European Waste Catalogue (EWC)) - Appendix A of the [Waste Classification Technical Guidance](#) provides a list of the codes as well as advice on how to assess and classify waste
 - x its quantity and nature and whether it is loose or in a container
 - x if in a container, the type of container
 - x the time and place of transfer
 - x the [SIC code](#) of the transferor (current holder of the waste)
 - x the name and address of the transferor and transferee (person receiving the waste) and their signatures (the signature can be electronic as long as an enforcement officer can view it)
 - x the capacity in which the transferor and transferee are acting (eg as a producer, importer or registered waste carrier, broker or dealer) and their relevant authorisation to act in that capacity (eg their permit number or registration number)

You should also consider whether there are any problems associated with the waste that you need to describe so that subsequent users can handle it properly. Examples include whether the waste: the

4.6 Retention of waste documentation

You **must** keep a copy of the waste description for waste you have transferred or received (either electronically or on paper format) for:

- x two years for [non-hazardous waste](#)
- x two years for season tickets
- x three years for hazardous waste consignment notes (different retention periods apply for consignees (receivers) of hazardous waste; see further detail in the [hazardous waste guidance](#))
- x six years if you are a landfill operator for non-hazardous waste (for landfill tax purposes)
- x the lifetime of your permit if you are a landfill operator for hazardous waste
- x the lifetime of an environmental permit (when the permit is surrendered, the regulator often requires a history of the types of waste received)

If an authorised officer of the EA, NRW or local authority asks you to provide the written description of waste, or a copy of it, and you fail to do so, they can issue a fixed penalty notice. Where the waste is hazardous waste, a variable monetary penalty for breach of the requirements to supply information may be issued.

5. Other waste laws for waste holders

A number of other waste laws are relevant to waste holders in particular circumstances. Some of these are briefly described below.

Hazardous Waste

If you produce or deal with hazardous waste you **must**:

- o comply with the [Hazardous Waste Regulations](#)
- o follow [specific requirements for consigning hazardous waste](#)

Producer Responsibility Regulations

Landfill