



# Commercial Waste Duty of Care

Helping to keep Sk clean green and healthy



## HOW YOU CAN HELP?

Everyone has a part to play in keeping South Kesteven clean and green. As a small business proprietor you can help by legally disposing of any waste produced from your business.

This will also stop you from being taken to court and fined. You may not be aware 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 garden clearances, packing, delivering, crèche or child minding, small businesses, offices, hairdressers, sun bed shops, second hand shops to name but a few.

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, or legally defined as 'Controlled Waste'.

## DISPOSAL OF WASTE - YOU HAVE TWO OPTIONS

### **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)

### **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 can check with the Environment Agency that your contractor is licensed. You are committing offences and risk being 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?

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

Small business often say; 'But my business does not produce any waste?'. This is highly unlikely, as trade waste includes:

- The post you receive
- Food your staff eat or drink on the business premises
- Damaged or scrapped items
- Floor sweepings
- Cleaning materials
- General waste that cannot be recycled
- Litter bin contents

This is also classed as business or commercial waste and you risk being prosecuted if you 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.

An option may be to agree to share a trade waste bin with other small businesses.

You might have to prove to the courts that you do not produce any waste whatsoever. You can recycle a lot of commercial waste, but it 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 the time of your collection. Bags put out at the wrong time can cause problems and look unsightly. Whoever collects your waste, make sure they have the authority to do so. They must be registered with the Environment Agency.

If it is 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. Also 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**

Failure to produce authority (waste transfer notes) can result in a Fixed Penalty Notice of £300.

Officers of the council have the legal right to see the documentation with regards to your Commercial / business waste agreement on request.

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

Please note: If your business is involved in human/ animal health care or related research, the types of waste you produce are clinical waste and needs to be disposed of differently.

## **MOST IMPORTANT**

When 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 five years imprisonment. We are here to help comply with the law.

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 it is collected by a legal waste carrier. 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 your bin is secured at all times.

You must 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 your contractor fails to collect your waste within a reasonable period of time (no more than a few hours), you cannot leave it on the street and you must take it back inside your premises.

If you have trade waste bins and your contractor has not emptied your bin, contact them at once to attend 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.

*"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 who may end up in court.

Most offences are caused by the businesses' own staff or contractors failing in their duties. 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, especially 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. Keep your bin and your bin area clean. Put this on a staff rota for someone to check daily.

# GET YOUR CONTRACTOR TO CHANGE YOUR BIN NOW BEFORE IT IS TOO LATE!

## SUFFICIENT BAGS, SPACE AND COLLECTIONS

We can inspect your current waste contract and arrangements to ensure you have proper storage, sufficient space for your waste and the correct amount of collections. We may check your current waste removal practices to ensure that you are legally dealing with your trade waste.

For further information on this and any other environmental legislation, visit [www.defra.gov.uk](http://www.defra.gov.uk) or [www.opsi.gov.uk](http://www.opsi.gov.uk).

## WHY ARE WE DOING THIS?

The council is committed to working with local businesses and to help them carry out their legal duties so we will take 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 deposits 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 District for everyone. Living and working in an attractive area encourages economic growth and financial investment from which all of us can benefit.

If we can help and you need further information on anything mentioned above, please contact South Kesteven District Council on 01476 40 60 80.

## FURTHER ADVICE

The Enforcement Team will be visiting businesses in South Kesteven to inspect your waste 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.

The minimum our team can do if you are found without a legal means of waste disposal is to serve a legal notice upon you requiring you to do so. We can serve a fixed penalty notice if you do not provide your waste transfer notes.

We want to work with you to ensure your waste arrangements are legal. If you require further information regarding your trade waste, please contact Environmental Health Services on 01476 40 60 80 or visit the DEFRA website at [www.defra.gov.uk](http://www.defra.gov.uk).

**If you think someone is acting illegally regarding waste, report it online at [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk) or call South Kesteven District Council on 01476 40 60 80.**

## ALTERNATIVE FORMATS AND LANGUAGES

South Kesteven has a rich and diverse culture - a community made up of people from different cultures, with differing backgrounds, beliefs or experiences. This diversity is one of the things that make South Kesteven such a great place to live and work.

To ensure all residents of South Kesteven have access to our information material, our information is available in a range of different languages and formats, including large print, Braille, audio tape and computer disc.

To request a document in a specific language or format, you can ring us, email us or fax us on: 01476 40 60 80 - [communications@southkesteven.gov.uk](mailto:communications@southkesteven.gov.uk)

### **Large print, Braille, audio tape or computer disc**

This information can be made available in large print, Braille, on audio tape or computer disc. If you, or someone you know, might benefit from this service, please contact us.

### **Latviski / Latvian**

Šo informāciju var iegūt arī latviešu valodā. Ja Jums vai kādai no Jūsu paziņai šādi pakalpojumi nāktu par labu, lūdzu kontaktējiet mūs.

### **Lietuviškai / Lithuanian**

Šią informaciją galite gauti lietuvių kalba. Prašome kreiptis į mus, jei jums arba jūsų pažįstamiems ši paslauga galėtų būti naudinga.

### **Polski / Polish**

Informacja ta może być dostępna w języku polskim. Jeżeli Państwo albo ktoś kogo Państwo znają, może z tej usługi skorzystać, proszę nas kontaktować.

### **Português / Portuguese**

Esta informação pode ser disponibilizada em português. Se você, ou alguém que conhecer, beneficiar com este serviço, por favor contacte-nos.

### **繁体中文 / Cantonese**

本資料有繁体中文版，若你本人或你認識的甚麼人會受益於此版本，敬請聯絡我們。