Duty of Care Frequently Asked Questions

**1 What is Duty of Care?**

The Environmental Protection Act 1990 (Section 34) sets out the legal requirements for businesses in respect of waste and states that all businesses store, transfer, transport and dispose of their business waste without harming the environment. This is called their ‘Duty of Care’.

**2 Who does it apply to?**

It applies to all businesses that generate or manage waste. This includes both the private sector such as self-catering properties, shops, offices and factories and the public sector such as schools, prisons and hospitals.

**3 What is classed as waste?**

Waste is any material that a business is disposing of. It may still be able to be re-used or repaired, but because the business is discarding it, it is classed as waste. Business waste includes kitchen waste, office waste, constructions waste, production waste and electrical waste.

**4 My Business doesn’t produce any waste. What should I do?**

All businesses create waste. What makes an item business waste is where it is produced. Any waste and recycling from inside a business like a shop, café, or restaurant or from running the business is classed as business waste

**5 Aren’t waste collections included in Business Rates?**

Non-Domestic (business) Rates do not include a charge for waste collection and disposal. Any waste services required at business premises must be charged separately.

**6 I receive a small business exemption from Non-Domestic Rates, am I entitled to free waste collections?**

No- all Non-Domestic properties must be charged for the service of waste collection and disposal, irrespective of whether they receive relief on their Non-Domestic Rates.

**7 Can I take my business waste home to dispose of?**

No: all businesses must dispose of their waste in accordance with the Duty of Care. If you take waste home, you are in breach of your Duty of care.

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

No: The Highland Council’s Household Waste Recycling Centres are not permitted to accept business waste for disposal.

**9 Can I dispose of my waste in public litter bins?**

No: the use of public litter bins for the disposal of business waste is a breach of your Duty of Care. A £200 Fixed Penalty Notice can be issued for business waste found in litter bins.

**10 What do I need to do to make sure I comply with Duty of Care?**

You must have waste disposal arrangements in place at your premises.

You need to ensure you are storing your waste securely.

You need to separate your recycling (paper, cans, card, plastic and glass) from other waste.

You need to check whoever collects your waste (a waste carrier) is legally permitted to do this and is registered with the Scottish Environmental Protection Agency (SEPA).

You need to keep your Waste Transfer Notes and store them safely for 2 years.

**11 How do I store my waste before Collection?**

You have a duty to store your recycling separately and to maintain a high quality of recycling.

All waste needs to be stored securely and carefully so it does not escape from your control. For example, it must be protected from being blown away by wind.

Where applicable, present food waste for separate collection.

Take reasonable measures to ensure that your waste does not cause pollution or harm to human health.

**12 Which waste needs to be separated for recycling?**

Paper, cans, cardboard, plastic and glass need to be separated from general waste. The Waste (Scotland) Regulations 2012 amended Section 34 implement a number of actions in the Scottish Government's Zero Waste Plan. Under these amendments, holders of waste, including producers, have a duty to take reasonable steps to increase the quantity and quality of recyclable materials.

**13 Can I transport my own business waste to dispose of it?**

Yes: you can transport your own business waste, but to meet legal requirements you must be a registered waste carrier with SEPA You can apply online to SEPA using this link. <https://www.sepa.org.uk/regulations/waste/waste-carriers-and-brokers/>

**14 How can I check my waste carrier is legal?**

You must make sure that any person or business that you transfer waste to or who organises waste transfers for you is registered with SEPA to do so. This is crucial in the effort to tackle waste crime. You can ask for a copy of the carrier's registration certificate and check this against SEPA's online public registers <https://www.sepa.org.uk/regulations/waste/waste-carriers-and-brokers/> to confirm that it is genuine and valid.

**15 What should I do if I receive a letter about the “Duty of Care”?**

Please read the letter and check if you are meeting your Duty of Care responsibilities. Please return the Waste Declaration form explaining where your waste goes. If you do not have a contract with a waste carrier for the disposal of your waste, you need to act and get one immediately. If needed, we may have to give a business a formal Notice and may prosecute them so please do not ignore the letter. We will usually contact businesses before starting formal enforcement action.