



Fly-tipping and the Law

a guide for the public





NO
TIPPING

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Fly-tipping: A guide for the public

Over one million incidents of fly-tipping were recorded in England and Wales over 2004/2005, an average of 88,500 per month. The illegal dumping of waste has cost local authorities in excess of £44m to clear up. However these are only the reported costs – if all fly-tips were recorded, the actual costs would be in the vicinity of as much as £100m – £150m per annum.

What is fly-tipping?

Fly-tipping is 'the illegal deposit of any waste onto land, or any waste dumped or tipped on a site with no licence to accept waste'. Fly-tipped waste generally consists of large items of rubbish that are dumped illegally on land instead of being disposed of properly at a landfill site or tip. Some people refer to this as 'dumping'.

What is the difference between litter and fly-tipping?

Small items of litter most commonly assumed to include materials associated with smoking, eating and drinking, that are improperly discarded and left by members of the public, or are spilt during business operations as well as waste management operations, is litter rather than fly-tipping. As a guideline a single sack of rubbish should usually be considered fly-tipping rather than litter.

Why is fly-tipping a problem?

Fly-tipping is illegal. UK waste comes under controls that impose a duty to ensure that waste is disposed of properly. Only holders of a Waste Management Licence can recover, transport, deposit or dispose of waste.

Waste can be deposited only at officially authorised sites. Anyone fly-tipping waste is committing a serious offence.

Uncontrolled waste disposal can be hazardous to the public, especially when the waste consists of drums of toxic material, asbestos sheeting, syringes or used drugs. There could be a high risk of damage to watercourses and underlying soil quality from the dumped waste. Fly-tipping looks unsightly and this can harm investment in an area. Cleaning up fly-tipping costs taxpayers money.

What are the most common items that are fly-tipped?

According to the Department for Environment, Food and Rural Affairs Flycapture Database, the most common types of fly-tipped waste are (starting with the greatest quantity): general household waste; white goods (fridges, freezers and washing machines); construction rubbish (demolition and home improvement rubbish); garden rubbish; and rubbish from businesses.

Why do people fly-tip?

The majority of people fly-tip their waste to avoid paying the levy (called the landfill tax) that everyone is obliged to pay for waste disposal. For household rubbish, landfill tax is included in your council tax bill; for business waste you must have a contract with a registered waste carrier. If you are disposing of business waste yourself at a tip or a landfill, the landfill must be licensed to take commercial waste, and you will have to pay a 'gate fee'. The costs are typically between £12 and £38 per tonne for commercial waste.

Fly-tipping and the law

What is the legislation regarding fly-tipping?

Fly-tipping of waste is illegal and constitutes a serious offence for which a person can be prosecuted.

There are several pieces of legislation relating to fly-tipping. In England and Wales the main legislation is the Environmental Protection Act 1990, ss.33, 34 and 59. The Control of Pollution (Amendment) Act 1989 sets out the need for waste carriers to register with the Environment Agency and gives the agency and authorised officers of a waste collection authority powers to stop and search vehicles used for illegal waste-related activities.

Environmental Protection Act 1990 (Part II) s.33

It is illegal for any person to *deposit controlled waste, knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence is in force and the deposit is in accordance with the licence.*

Controlled waste is any household, commercial or industrial waste. Section 33 also makes it an offence if a person has treated, kept or disposed of controlled waste in or on land that does not have a waste management licence, or that is not in accordance with a licence. It is a defence to prove that all reasonable measures were taken to avoid the illegal dumping of waste, or that it was a case of emergency to avoid endangerment to the public. It is not a valid defence to claim to be acting under an employer's instruction.

Where a person is convicted under s.33, the court may make an order requiring the offender to pay for the costs associated with the enforcement and investigation of the case, the seizure of any vehicles that were involved in the offence and costs for the removal of the illegally deposited waste. The court may also make an order to deprive the offender of his rights to a vehicle (and its contents) if the court is satisfied that the vehicle was used to commit the offence.

Householders do not need licences for their waste. However, from May 2006 the Waste Management (England and Wales) Regulations 2006 will amend s.33(2) to prohibit the disposal etc. of such waste by private individuals, within the curtilage of their property, in a manner likely to cause pollution of the environment or harm to human health.

Environmental Protection Act 1990 (Part II) s.34

Businesses have certain responsibilities to ensure that waste materials from commercial activities are disposed of with due regard to the law. A 'Waste Holder' (any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste) has a 'Duty of Care' with regard to that waste and it is an offence if they fail to take all reasonable measures to:

- prevent another person from committing an offence under s.33 of the EPA 1990;
- prevent the escape of the waste from his or another person's control; and to transfer the waste to an authorised person or to any person for authorised transport purposes and to provide that person with a written description of the waste.

An authorised officer can issue a Fixed Penalty Notice to any person who has failed to comply with the requirement to furnish documentation as specified under s.34(5). The amount of the fixed penalty is set at £300.

Householders also have a Duty of Care to check that any one they commission to take away and dispose of their domestic waste is registered. Householders are not required to supply documentation such as a waste transfer note but they could face hefty court fines if they fail to take reasonable measures to ensure their domestic waste is handled by an authorised waste carrier. It will be for the courts to decide what these 'reasonable measures' will comprise on a case-by-case basis.

The Environment Agency website features an online database of registered waste carriers. The agency also provides a phone line to ring to conduct a Waste Carrier Validation Check: **08708 506 506**.

Environmental Protection Act 1990 (Part II) s.59

Provides powers for waste regulation authorities such as the Environment Agency and local authorities to issue a notice requiring the removal of waste unlawfully and knowingly deposited. Failure to comply could result in a fine not exceeding level 5 on the standard scale for a summary conviction, and local authorities can enter the land, clean up the waste and recharge the costs to the owner or occupier. This course of action is also available in order to prevent any immediate damage to the environment.

Control of Pollution (Amendment Act) 1989 ss.1, 2, & 5

It is an offence under s.1 of the 1989 Act for anyone who is not a registered carrier of controlled waste to transport any waste in the course of business or with a view to making a profit.

Section 2 specifies requirements for the registration of carriers of waste, as well as regulations for vehicles used for the transportation of waste to comply with certain conditions.

How can I prevent fly-tipping?

Section 5 of the 1989 Act gives powers to waste regulation authorities such as waste collection authorities, police and other enforcement authorities to stop and search any vehicle believed to be used for the transportation of controlled waste without being registered. Only a constable in uniform can stop a vehicle on a road. It is an offence to fail to assist or to obstruct an authorised officer or a constable. Where it appears to an authorised officer that a person has failed to produce authority for transporting controlled waste, the officer may issue a Fixed Penalty Notice. The penalty fine is set at £300.

Disclaimer

This document can only serve as a guide to current legislation at the time of going to press. It does not constitute legal advice. It may be misleading if relied upon as a complete explanation of the legal issues involved. Full legislation is available through www.opsi.gov.uk and a guide to the local environmental legislation available to local authorities can be found at www.idea.gov.uk/knowledge

What should I do if I see someone fly-tipping?

Dumping rubbish is illegal and dangerous and it can ruin the appearance of your neighbourhood. Don't put up with it – report it. If you report it, the rubbish can be removed and with your help the crime can be investigated. If you see someone fly-tipping or would like to report an area where fly-tipping has taken place, take note of the following:

- the date, time and place of the occurrence;
- what the waste looks like and how much of it there is;
- a description of any vehicles involved along with their vehicle's registration numbers.

You should then report the fly-tipping to your local authority or to the Environment Agency in England and Wales on the national hotline number 0800 807060. The council or the Environment Agency may wish to prosecute the person fly-tipping and may rely on your evidence in court. Even if you do not wish to be a witness, or to give your name, it is still important to report these crimes, as this will be useful in a prosecution. Help to beat environmental crime by making sure that it is always reported.

Fly-tippers are doing something illegal. They do not want to be caught. Some fly-tippers may become violent. You should not approach them. Only approach the site when you are sure it is safe to do so.



Some waste is hazardous. Do not touch anything. You should not approach it and certainly not open any black bags or containers.

Additionally, if you are asking a third party, e.g. a builder, to dispose of your waste as part of a job, you should ensure that they are a Registered Waste Carrier. You are responsible for making sure that they are registered, so ask to see their certificate, or alternatively check with the Environment Agency. At the back of this guide, you will find an example of a form you can use to report fly-tipping.

Should I call the relevant statutory agency or my local authority?

If you spot large scale, more serious incidents of illegal waste disposal or fly-tipping, you should phone either the Environment Agency on their national hotline: 0800 807 060 or check online at: www.environment-agency.gov.uk. A serious incident could be where fly-tipped material is giving rise to the risk of pollution of land or watercourses, or is obstructing or causing potential flooding in watercourses. You should contact your local authority if the incident is smaller and appears to be less serious.

If I want to dispose of bulky waste, will it be removed with my normal refuse collection?

Your council is not obliged to remove any bulky household waste, e.g. fridges, sofas, etc. If you need to dispose of any bulky waste (some local authorities include garden waste as bulky waste), you must contact your council's waste collection service. Some local authorities charge to use this waste collection service. Alternatively, you can commission the services of a Registered Waste Carrier to remove and dispose of your waste safely and legally, or you can dispose of the waste yourself at your local tip or landfill. If you have refuse that may be hazardous or toxic in nature you should contact your local tip or your local authority for advice on where to take it. Not all landfills are licensed to take hazardous types of wastes.

What am I meant to do with garden waste?

Garden waste is treated in the same way as bulky waste. It should not be placed in your main refuse bin for the local authority to remove. Some councils have garden waste collections, often in separate bins. Otherwise, take garden waste to your local tip for composting or compost at home.

What is ENCAMS doing?

What about commercial waste?

To dispose of commercial waste, you will need to make sure that you have a contract with a waste company licensed to remove your waste. There will be a charge for this service. You have a 'Duty of Care' to ensure that any waste generated by your business is collected, transported and disposed of by a Registered Waste Carrier, and that the relevant documentation is supplied (waste transfer notes) for all waste management transactions. For more information on the Duty of Care, please refer to the Legislation section on page 4.

Campaigning

ENCAMS ran a fly-tipping campaign in May 2003, which aimed to reduce the amount of fly-tipping in rural and urban areas across England. Using research carried out by ENCAMS into littering behaviour, the campaign was targeted at triggering the feeling among fly-tippers (including business traders) that they were being watched and could be reported for illegal dumping of waste. The public were encouraged to report incidents of fly-tipping and fly-tippers by using a telephone hotline number. The hotline was promoted through a poster campaign including advertising on buses and billboards, particularly in and around urban fringe areas.

Monitoring

ENCAMS carries out annual surveys of the local environmental quality of England for the government. The surveys monitor over 100 aspects of the local environment including litter, dog fouling, graffiti, flyposting and fly-tipping. For more information, see www.encams.org.



Useful contacts

The Environment Agency (England and Wales)

Fly-tipping/Pollution Hotline: 0800 807060

Ring 0845 9333111 for details of your local office

www.environment-agency.gov.uk

ENCAMS runs the Keep Britain Tidy Campaign and provides free publications which can be ordered via its website www.encams.org or a telephone ordering line 01942 612639.

ENCAMS

Elizabeth House The Pier Wigan WN3 4EX

T: 01942 612621 F: 01942 824778

E: enquiries@encams.org

Furniture Recycling Network

Wakefield CFS The Old Drill Hall 17a Vicarage Street
North Wakefield WF1 4JU

T: 01924 380 587

E: community.furniture-service@virgin.net



Dumping rubbish is illegal and dangerous and it can ruin the appearance of your neighbourhood. Don't put up with it – report it.

If you report it, the rubbish can be removed and with your help the crime can be investigated. Report the fly-tipping to your local authority or the Environment Agency on their national hotline number 0800 807060. Use this form as a guide:

The council or the Environment Agency may wish to prosecute the person fly-tipping and will possibly rely on your evidence in court. Even if you do not wish to be a witness, or to give your name, it is still important to report these crimes, as this will be useful in a prosecution. Help to beat environmental crime by making sure that it is always reported.

Fly-tippers are doing something illegal. They do not want to be caught. Some fly-tippers may become violent. You should not approach them. Only approach the site when you are sure it is safe to do so.

Some waste is hazardous. Do not touch anything. You should not approach it and certainly not open any black bags or containers.

1. Your details: name, address and telephone number

2. Day, date and time that you saw the fly-tipped rubbish

3. Location of the dumped rubbish (please be as specific as you can)

4. Did you see anyone in the act of dumping the rubbish? If no, go to 7

- Yes
- No

5. Details of the fly-tippers (include the following: how many people you saw dumping the rubbish; what they looked like; did you recognise any of them?; their names and addresses if you know them)

6. Was there a vehicle involved? (What did it look like? What was its make, colour and registration? Were there any distinguishing features on it?)

7. At what time did you first see the tipping and at what time did you see it stop? Did you see the whole incident from the beginning? If not, from what point did you see it?

8. Where were you when you saw the fly-tipping? (include details on the view that you had; whether you could see clearly; where you were in relation to the incident; how far away you were)

9. What was the weather like? (e.g. clear/cloudy/sunny/dark?)

10. What was dumped? (e.g. bed, food, furniture, medical waste) or what did the waste look like? (e.g. black bags, drums) DO NOT TOUCH THE WASTE

11. How much waste was there? (e.g. two black plastic bags, a car-boot full, a lorry load)

12. Was anyone else there with you? Please give their name and contact details if they are happy for you to do so



www.encams.org

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