

Fly Tipping – Useful Information from Wiltshire Council

Fly tipping is the illegal dumping of waste on land. Such tipping occurs on a frequent and geographically wide-spread basis across England and Wales. Its blight is not just visual and can have serious health and safety effects; and the costs of dealing with it are substantial. Increasingly, it occurs on an organised basis that significantly amplifies its detriment to the local environment and contributes to the growth of serious crime.

Fly tipping is an offence under Section 33 of the Environmental Protection Act (1990). The maximum penalties for fly tipping on summary conviction are a £50,000 fine and/or twelve months imprisonment, and on conviction in a Crown Court an unlimited fine and/or five years imprisonment. In addition, Fixed Penalty Notices (FPN) for small scale fly tipping which causes litter problems can also be issued (Currently £75). Those found guilty of fly tipping may also have to pay legal costs and compensation, which can greatly increase the financial implications of illegal dumping. In addition, under the Proceeds of Crime Act (2002), offenders can have assets frozen and confiscated.

Preventing fly-tipping in the first place is a key factor in combating fly tipping. One effective way is by helping householders and businesses to understand their obligations to dispose of waste legally i.e. raising awareness of the 'Waste Duty of Care'. Both householders and businesses have a legal duty of care to manage their waste and ensure that it is disposed of lawfully. Failing to do so can lead to individuals or organisations being prosecuted for unlawful waste management.

Residents and businesses around the County can fall foul of the law regarding their own duty of care in managing their waste. Under the domestic waste 'Duty of Care', householders are responsible for ensuring that their rubbish is only passed on to authorised waste carriers. Some people pose as legitimate waste carriers and then fly tip rubbish that they have been paid to dispose of properly. If any fly tipped waste is traced back to the household it came from, the householder could be prosecuted or fined for breaking the law. This applies to any waste including; domestic everyday waste, bulky household items and garden/green waste i.e. garden improvement work, tree or hedge maintenance. Similar requirements regarding businesses are detailed below.

Household Waste Duty of Care

If you are a householder, you are required to take reasonable steps to check that people removing waste from your premises are authorised to do so.

Before you let someone other than the council take waste away for you, you should:

- Ask the person taking the waste where it will be going and ask to see their Waste Carriers Licence. If they don't have one, don't use them.
- Check whether they are registered by calling the Environment Agency on 03708 506506 for an instant waste carriers validation check, or by visiting the Environment Agency's Public Registers web page:
- <http://www.environment-agency.gov.uk/research/library/publicregisters/default.aspx>

- Keep a record of any paperwork they give you, the dates you used them, their name, telephone number and registration number so that if they do fly tip your waste you will be able to pass their details to the council. Reputable, licensed waste removal businesses will issue you a waste transfer note which is used to record the removal details and demonstrates safe and lawful waste management.
- Report anyone who is not registered to the Environment Agency on 03708 506506.

Business Waste Duty of Care

Any business that produces, handles or disposes of controlled waste has a statutory obligation to ensure it is managed correctly under Duty of Care legislation. Controlled waste' is effectively all waste that arises from business premises. This includes waste that is collected for recycling as well as waste that is disposed of to landfill or incineration.

Under the Environmental Protection Act (1990) all businesses must:

- Stores their waste correctly i.e. it must be properly contained
- Ensure their business waste is collected by registered waste carriers
- Ensure all collections are covered by a valid Waste Transfer Note that includes a written description of the waste to enable anyone handling it to do so safely and appropriately
- Hold records of Waste Transfer Notes for at least two years (legal requirement)
- Be compliant with the laws surrounding lawful waste management - ignorance of the law is no defence if your waste is found fly tipped.

Council officers can inspect business documentation at any time to ensure they are complying with the law. If businesses cannot provide the requested documentation i.e. not able to demonstrate lawful waste management, they can be issued a FPN (Currently £300) under the Environmental Protection Act (1990).

Taking into account the above responsibilities, the council is also advising that householders and businesses don't fall foul for a growing criminal industry of "Facebook fly-tippers" who pose online as legitimate waste removal companies but then fly tip the waste. The Council is seeing a huge rise in bogus waste removal firms advertising on social media.