

Duty of Care

All businesses and organisations must meet the requirements set out in the Duty of Care.

What is a Duty of Care?

Under Section 34 of the Environmental Protection Act 1990, any business, not-for-profit organisation, or public sector body has a legal requirement to store, present, and dispose of their waste in a responsible manner. This responsibility is referred to as a 'Duty of Care'. A full guide on the duties that must be complied with by anyone who produces, keeps, imports or manages controlled waste (household, industrial or commercial waste) in Scotland can be viewed in the Scottish Government website - [Duty of care: code of practice for managing controlled waste - gov.scot \(www.gov.scot\)](http://www.gov.scot).

What happens if I do not comply with my Duty of Care?

[Waste \(Scotland\) Regulations 2012](#) amendments to Section 34 of the Environmental Protection Act (1990) set out three main offences applicable to waste producers under their Duty of Care requirements. From 1 January 2014 (or 2016 for small food waste producers):

- Failing to take all reasonable steps to ensure the separate collection of dry recyclable waste i.e., glass, metals, plastics, paper, or cardboard.
- Failing to take all reasonable steps to ensure the separate collection of food waste produced by a food business in non-rural areas.
- From 1 January 2016: Failing to ensure that food waste is not deposited in a public drain or sewer, or in a drain or sewer that connects to a public drain or sewer in non-rural areas.

Any person who fails without reasonable excuse to comply with the duties imposed above shall be liable:

- (a) on summary conviction, to a fine not exceeding the statutory maximum (£10,000)
- (b) on conviction on indictment, to an unlimited fine.

Who enforces waste legislation?

Local Authorities and the [Scottish Environment Protection Agency](#) are responsible for enforcing Duty of Care requirements. Both bodies are authorised to issue Fixed Penalty Notices on businesses or organisations who are in breach of these regulations.

How do I ensure I am compliant?

Ensure your waste contractor has issued your business or organisation with a Waste Transfer Note which outlines the type of waste you dispose of the container(s) used to store this, and the frequency of your uplifts. You are required to keep this important document for 2 years as you may be asked to produce this as proof of responsible waste disposal. If you are a Dumfries and Galloway Council Commercial Waste customer, you will receive your Waste Transfer Note with your invoice each financial year. Please ensure this document is up to date by advising the Commercial Waste Team of any changes.

If you are unsure whether your business or organisation is compliant with the [Waste \(Scotland\) Regulations 2012](#) and your Duty of Care responsibilities, you can book a no obligation Waste Compliance visit with one of our Commercial Waste Team. We will be able to offer advice, and work with you to provide your business with a tailored waste management system to meet your needs.

To request further information or to set up a waste contract with us please email wastecollectionservices@dumgal.gov.uk