

Duty of Care – A Code of Practice

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1 Introduction

Section 34 of the [Environmental Protection Act 1990 \(as amended\)](#) lays out a number of duties with respect to the management of waste. Waste must be managed correctly by storing it properly, only transferring it to the appropriate persons and ensuring that when it is transferred it is sufficiently well described to enable its safe recovery or disposal without harming the environment.

The [Waste \(Scotland\) Regulations 2012](#) amended Section 34 to 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.

This "Duty of Care: A Code of Practice" (the "Code") explains these duties which apply to anyone who produces, keeps, imports or manages controlled waste in Scotland. The Code is made under section 34(7) of the Environmental Protection Act 1990 (as amended) and replaces all previous versions applicable in Scotland. This Code applies in Scotland only.

Under section 34(10) of the 1990 Act, this Code is admissible as evidence in court and the court shall take it into account in determining any questions to which it appears to be relevant. The intention is that the Code will assist the courts, when hearing cases under Section 34 of the 1990 Act, in determining whether persons subject to the duty took reasonable measures to comply with it.

Revised Waste Framework Directive

The [EU Waste Framework Directive \(2008/98/EC\)](#) came into force on 12 December 2010 and provides the overarching policy and legislative framework for the management of waste, including a common definition of waste.

In contrast to earlier Directives on waste, which focused on mitigating the environmental impacts of waste management and disposal, the new Directive regards waste as a valuable resource which can provide raw materials for sustainable growth in a low carbon economy. It aims to transform EU member states into "recycling societies", moving away from a linear model of consumption and disposal towards a cyclical model where material productivity is optimised.

To achieve this, the Directive has at its core, a waste hierarchy, setting out a priority order of how waste should be managed. With regard to the objective of conserving resources and reducing the environmental and societal costs of primary extraction, priority is given to prevention of waste and its potential harmful effects and secondly, to the recovery of waste by means of re-use or recycling. To deliver this, Article 11 requires Member States to establish separate collections for the key recyclable materials and promote 'high quality' recycling.

In addition, the Directive contains requirements to ensure the collection, transport, recovery and disposal of waste is carried out without endangering human health or causing harm to the environment. This includes permitting, registration and inspection requirements.

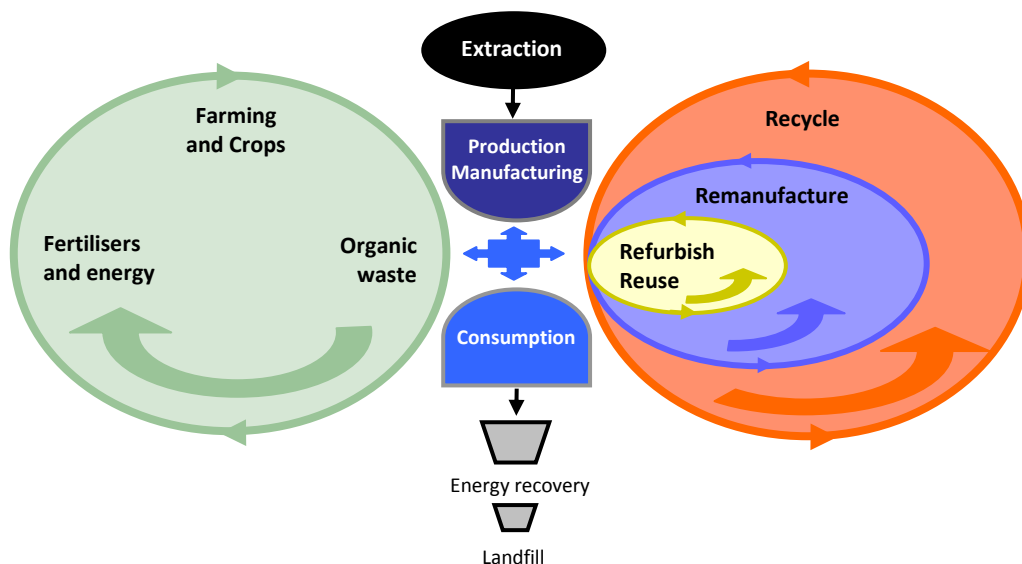
Zero Waste Plan

Average commodity prices are higher today than at any time in the past century. This trend looks set to continue as increasing global population drives increasing demand for limited resources. For some materials such as copper, indium, and rare earth elements, severe supply chain risks are already emerging.

Reliable access to high quality resources is essential for our economy to prosper. This means finding new and innovative ways to conserve resources and to cycle materials efficiently back into supply chains.

A zero waste society is one where goods and materials are continually cycled to support the sustainable growth of the Scottish economy, and waste is progressively designed out.

This is about much more than simply getting better at end of life recycling. The less a product has to be changed in reuse, refurbishment and remanufacturing and the faster it returns to use, the higher the potential savings on the shares of material, labour, energy, and capital embedded in the product and on the associated mix of environmental impacts.



A critical step in this journey was the introduction of the [Waste \(Scotland\) Regulations 2012](#). By requiring separate collection of key recyclable materials, these regulations support the recycling loops of this 'circular' model and will help deliver the high quality materials and market certainty needed to support

investment in the next generation of recycling and reprocessing facilities in Scotland.

‘High Quality Recycling’

Section 34(2L) requires that all waste holders take “reasonable steps to promote high quality recycling”. Evidence shows there are greater environmental benefits to closed loop recycling where a product is used, discarded, captured, and then the component materials recycled into a new product of similar functionality which can itself be used, discarded and captured, to be recycled again, continuously cycling the material resource through the supply chain. Examples include;

- the use of recovered glass cullet in re-melt applications to create new glass products rather than for aggregate in construction;
- the use of recovered plastic to produce, for example, new food and drinks containers rather than construction products;
- the use of recovered paper for the production of new paper products rather than other uses such as animal bedding and insulation.

These closed loop applications represent the Scottish Government’s interpretation of ‘high quality’ recycling and the design and operation of waste management systems must prioritise these preferred outcomes. The Waste Hierarchy Guidance provides further details for a range of common recyclable materials and the evidence base.

Generally speaking, these ‘high quality’ applications require high quality materials in order to be viable. Supply chains, from producer onwards, must work together to maximise the production of high quality material capable of meeting the standards required by those that reprocess materials in ‘high quality’ applications.

This Code should be read in conjunction with the waste hierarchy guidance. Together they describe the priority outcomes for recycling in Scotland, what is meant by ‘high quality’ recycling with respect to a range of common waste streams and provide practical advice on how it can be delivered.

Tackling Waste Crime

Deliberate law breaking by people who fail to manage, transport and dispose of waste correctly to cut costs does occur. SEPA is working to actively identify and deal with illegal operators with a particular focus on illegal waste sites, illegal exports and large scale dumping. Not dealing with waste legally can;

- cause serious damage to the environment and pose risks to human health, for example, illegal burning produces toxic fumes;
- create problems for local communities from noise and nuisance and for communities abroad through illegal exports of non-recyclable waste;

- be bad for business, as illegal operators undercut legitimate waste companies.

Waste crime is a serious offence with tough penalties. This Code of Practice provides guidance on how to deal with your waste responsibly, avoid illegal operators and reduce the risk of action being taken against you.

Whether you are a business, local authority or householder you must ensure you know where your waste goes and that it is managed appropriately. If you don't manage your waste correctly you risk being prosecuted and fined.

How to use this Code of Practice

This code covers the Duty of Care relevant to all aspects of waste management. For ease of reference, the sections have been determined by roles – producer, collector etc. Some readers may need to read more than one section of the guidance, depending on their role within Duty of Care. For example, if you are a waste manager who also arranges the export of waste, you will need to read the sections on manager and exporter responsibilities.

Householders also have some, albeit limited, obligations under the Duty of Care outlined in Chapter 9.

Links to further advice, guidance and support are provided in Appendix 2.

2 Glossary

Term	Description
Basic Characterisation	The Landfill Directive (1999/31/EC) and Council Decision (2003/33/EC) establish criteria and procedures for the acceptance of waste at landfills including a requirement for their basic characterisation.
Broker	An establishment or undertaking arranging the recovery or disposal of waste on behalf of others including those brokers who do not take physical possession of the waste.
Carrier	Any person (or establishment or undertaking) transporting waste within Scotland.
Closed-loop Recycling	Where a product is used, discarded, captured, and then the component materials recycled into a new product of similar functionality which is then itself used, discarded and captured, to be recycled again, continuously cycling the material resource through the supply chain.
Construction Work	The carrying out of any building, civil engineering or engineering construction work and includes: construction, alteration, conversion, fitting out, commissioning, renovation or other maintenance, decommissioning, demolition or dismantling of a structure.
Construction and Demolition Waste	Waste arising from works of construction or demolition, including preparatory works thereto.
Co-mingled waste	Co-mingled collections are where some, or all, of the key dry recyclables are collected together in the same container and later sorted at a Materials Recycling Facility.
Controlled Waste	The term controlled waste comes from Section 75(4) of the Environmental Protection Act 1990 and is defined as “household, industrial and commercial waste or any such waste”. Further detail on the meaning of household, industrial and commercial waste is provided in the Controlled Waste Regulations 1992.
Dealer	Establishment or undertaking which acts in the role of principal to purchase and subsequently sell waste including dealers who do not take physical possession of that waste.
Enforcement Officer	An officer of the Scottish Environment Protection Agency or Local Authority who has powers in connection with the investigation of actual or suspected offences, the detection and apprehension of offenders and to act in respect of such environmental offences.
Environmental Permit	A permit or licence issued under the Pollution Prevention and Control (Scotland) Regulations 2000 (as amended) or the Waste Management Licensing Regulations 2011 .
Environmental Protection Act 1990	Section 34 of this Act sets out the requirements of the Duty of Care with respect to waste.
Exemption from an WML	An activity that can be undertaken legally without a waste management licence. Regulation 17 and Schedule 1 to the Waste Management Licensing (Scotland) Regulations 2011 lists and describes the waste operations which do not require an Waste Management Licence, providing that the establishment or

	undertaking carrying them out complies with the terms of the Regulations and has registered that exemption where required.
Establishment or Undertaking	Includes any organisation, whether a company, partnership, authority, society, trust, club, charity, sole trader or other organisation, but not individuals acting in a private capacity.
Food Business	An undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the processing, distribution, preparation or sale of food.
Food Waste	Controlled waste that was at any time food intended for human consumption (even if of no nutritional value), and includes biodegradable waste produced as consequence of the processing or preparation of food, but does not include drink.
Green List Waste	Waste which is not, for the purposes of import or export for recovery, regarded as hazardous. Green list controls apply to some (but not all) imports or exports.
Harm	Harm to the health of living organisms or other interference with the ecological systems of which they form part and in the case of man includes offence to any of his senses or harm to his property; and “harmless” has a corresponding meaning.
Household waste	Waste generated by households (and not as defined by the Controlled Waste Regulations 1992 which are concerned with charging for collection). Waste from households includes household collection rounds, other household collections such as bulky waste collections; waste deposited by householders at Household Waste Recycling Centres (HWRCs) and recycling points / bring banks.
Householder	The occupier of any domestic property.
Holder of Waste	The producer of the waste or the natural or legal person that is in possession of it or who has control of it.
Pollution of the Environment	Pollution due to the release or escape (into any environmental medium) from: <ul style="list-style-type: none"> (a) the land on which controlled waste is treated, (b) the land on which controlled waste is kept, (c) the land in or on which controlled waste is deposited, (d) fixed plant by means of which controlled waste is treated, kept or disposed of, of substances or articles constituting or resulting from the waste and capable (by reason of the quantity or concentrations involved) of causing harm to man or any other living organisms supported by the environment.
Public Registers	A register maintained by SEPA of all registered waste management activities including all waste carriers or professional collectors or transporters of waste, waste brokers and dealers, those with a waste management licence or pollution prevention and control permit or those establishments or undertakings registered as operating under an exemption from waste management licensing.
Rural area	Rural is defined using the six-fold classification system used by Scottish Government. A guide to defining rural and non rural areas to support zero waste policies is available containing all the rural postcodes which benefit from the exemption.
Season Ticket	A controlled waste transfer note must be created for each load of waste that leaves your site. However, for repetitive transfers there

	<p>is provision to use one transfer note which will cover multiple transfers. One transfer note can be used for multiple collections for a time period that is not to be longer than 12 months; it should then be renewed if required. This is called a "season ticket".</p> <p>A season ticket can only be used if none of the following details change:</p> <ul style="list-style-type: none"> • the waste carrier remains the same • the producer and collection premises remains the same • the description of waste remains the same <p>If any of this information changes, then an individual transfer note must be used. It is advisable that a log be maintained of loads of waste leaving and arriving at sites under a season ticket.</p>
Separate Collection	<p>"Waste is presented for collection, and collected, in a manner that ensures that—</p> <p>(i) dry recyclable waste is kept separate from other waste;</p> <p>(ii) waste from one dry waste stream is kept separate from waste in another such stream¹."</p>
SIC Codes	<p>SIC is the UK Standard Industrial Classification of Economic Activities (2007). The SIC code is used to classify business establishments and other statistical units by the type of economic activities they are engaged in. You are required to record the appropriate SIC code of the transferor on all controlled waste transfer notes. Relevant codes can be determined from the Office of National Statistics.</p>
Transfer Note	<p>A note which must be created for any transfer of controlled waste. The note must be signed by both parties and must contain certain prescribed information about the waste to be transferred. It must contain a written description of the waste and any further information required for the next and subsequent holders of the waste to manage it without causing pollution of the environment or harm. A specimen note is provided in Chapter 10 of this guidance.</p>
Transferee	<p>The person (or establishment or undertaking) receiving the waste.</p>
Transferor	<p>The person (or establishment or undertaking) holding the waste and who transfers it to another (different) person (or establishment or undertaking).</p>
Waste	<p>'Waste' means any substance or object which the holder discards or intends or is required to discard.</p>
Waste Collection Authority	<p>A local authority responsible for collecting waste as defined in Section 30 of the Environmental Protection Act 1990.</p>
Written Description	<p>Information submitted on the transfer note identifying the nature and characteristics of the waste. This must enable subsequent holders to avoid breaching their duty of care or permitting obligations and should help them manage the waste correctly and to meet their requirements under the Landfill Directive.</p>
WEEE	<p>Waste Electrical and Electronic Equipment that is regulated under</p>

¹ Waste (Scotland) Regulations 2012

	the Waste Electrical and Electronic Equipment Regulations 2006 (as amended) .
Waste Manager	Waste manager means anyone who is responsible for the collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and includes any actions taken as a broker or dealer.
Waste Producer	Any person whose activities produce waste (original waste producer) or anyone who carries out pre-processing, mixing or other operations which result in a change in the nature or composition of this waste.

3 The Waste Hierarchy

The [European Waste Framework Directive \(2008/98/EC\)](#) came into force on 12 December 2010 with the intention of turning EU member states into “recycling societies”. The Directive aims to shift the focus away from waste being an unwanted burden towards being a valued resource, which can provide opportunities for sustainable growth in a low carbon economy.

This resource centered approach is summarised in the five step waste hierarchy. Driving waste management up the waste hierarchy is central to the development of sustainable waste management in Scotland and the ambition of a zero waste society.



Preventing waste, through reducing consumption, using resources efficiently, designing longevity and regeneration into consumer goods and substituting less harmful and more sustainable alternative raw materials into products, is the best option. This is followed by re-use of goods such as clothing, books and furniture and repair and remanufacture of products and machinery. Closed loop recycling of materials such as paper, glass, metals and plastic is the next preferable option and generally constitutes the priority ‘high quality’ recycling as described above. If unable to reuse or recycle in a closed loop, then recovering value, either through low quality recycling or in the form of energy is promoted over landfill.

The [Waste \(Scotland\) Regulations 2011](#) and the [Waste Management Licensing \(Scotland\) Regulations 2011](#) place a duty on all persons who produce, keep or manage waste, including Local Authorities, to take all reasonable steps to apply the waste hierarchy.

It is your duty to take all reasonable steps to apply the waste hierarchy. You must therefore apply the hierarchy **as a priority order** to the management of your waste. This goes hand in hand with the duty to promote ‘high quality recycling’. The Waste Hierarchy Guidance (available from the Scottish Government’s web site) provides details of the priority outcomes for a range of common waste streams.

This Code of Practice provides advice on how materials can be delivered in sufficient quality so that closed loop recycling is possible, in line with the waste hierarchy and the requirement to ensure high quality recycling.

4 Your Obligations as a Waste Producer

This section offers guidance to any person (with the exception of an occupier of domestic property in respect of waste produced on that property) who produces waste in the course of their activities. This includes both private sector business such as shops, offices and factories and public sector services such as schools, hospitals and prisons.

As the producer of waste, how you manage it at source ultimately determines the value which can be derived from it. You are also in the best position to accurately describe the waste and ensure safe downstream management. You therefore have the most important role.

What are my responsibilities?

You must comply with the duties in Section 34 whilst the waste is in your possession and when you transfer your waste to somebody else. Where you use a waste broker or dealer, you both have responsibilities under Section 34. Using a waste broker does not lessen or remove any of these responsibilities from you in your role as a waste producer.

Table 1 – Responsibilities of the waste producer

As a waste producer, you must:

- Apply the waste hierarchy to the management of your waste and promote 'high quality' recycling.
- From 01 January 2014, present glass, metal, plastic, paper and card (including cardboard) for separate collection.
- Take steps to maintain the quality of dry recyclables presented for separate collection.
- In some circumstances, present food waste for separate collection.
- Take care of the waste while you hold it so it does not escape from your control.
- Ensure your waste is transferred to someone who is authorised to receive it, for example, a registered waste carrier or waste manager with the relevant authorisation. Or, if you are carrying your own waste that you are appropriately registered with SEPA.
- Complete a waste transfer note for any transfer of waste, including a full description of the waste, and retain a copy of this note for two years.
- Describe the waste accurately and provide information for the safe handling, transport, treatment, recovery or disposal by subsequent holders.
- Take reasonable measures to ensure that your waste does not cause pollution or harm to human health.

This is explained in further detail below. Compliance with the Duty of Care means that you must take the following steps:

Step 1a – Apply the waste hierarchy and separate dry recyclable materials

You must take all reasonable steps to apply the waste hierarchy as a priority order to the management of your waste and promote 'high quality' recycling. The Waste Hierarchy Guidance describes the order for a range of common waste streams and further advice on how to apply it. As the first link in the supply chain, you have a crucial role to ensure that waste presented for recycling is of sufficient quality to support the priority outcomes.

The duty to apply the waste hierarchy applies to all waste streams and therefore any material capable of being reused, recycled or otherwise recovered (such as dry recyclables, textiles, WEEE, wood, tyres, etc) should be segregated and the preferred management routes identified and applied in priority order.

What is the duty?

The best way you, as a waste producer, can promote 'high quality' recycling is to introduce a fully segregated recycling system. From 01 January 2014, you must take all reasonable steps to present at least the following key dry recyclables for separate collection;

- metals;
- glass;
- plastics;
- paper; and
- card (including cardboard).

A well operated recycling system should ensure a high capture rate with very little, if any, dry recyclables left in the residual stream.

Mixed or residual waste collections may still be required but only where they are complementary to a separate recycling service as part of an overall waste management solution.

However, it should be noted that some sub-categories of these materials are not readily recyclable. For example, pyrex glass does not currently have a recycling outlet and therefore it is not expected that producers segregate it at source from residual waste.

Your waste management contractor will be able to provide advice on the appropriate waste types to segregate for collection.

What is meant by “separate collection”?

The Waste (Scotland) Regulations 2012 defines separate collection as when;

“Waste is presented for collection, and collected, in a manner that ensures that—

- (i) dry recyclable waste is kept separate from other waste;
- (ii) waste from one dry waste stream is kept separate from waste in another such stream.”

Therefore, separate collection means waste stream specific separation. That is to say, a separate container is required for each dry recyclable and the subsequent handling must be sufficient to maintain that separation through the management chain.

Full segregation is the best way to ensure recyclate contamination is kept to a minimum and ‘high quality’ recycling can be achieved.

Kerbside sort systems, where the waste producer places the dry recyclables in the same container for subsequent sorting by the waste collector into different vehicle compartments at the point of collection are considered to be equivalent to separate collection.

Is full material separation always necessary?

Complete segregation of dry recyclables is the first option and should be prioritised when choosing a collection system. In many cases it will be possible to fully segregate the dry recyclables; for example, most office premises should be able to segregate waste paper, metal cans and plastic bottles for collection separately from each other.

However, the introduction of fully separate collection systems may not be practicable in all circumstances and may not be necessary provided the aim of high quality recycling can be achieved just as well with a form of co-mingling. Co-mingled collections are where some, or all, of the key dry recyclables are collected together in the same container (but still separate from mixed or general waste) and sorted at a Materials Recycling Facility (“MRF”).

In order to accommodate these cases, the Regulations provide a derogation from the requirement for separate collection and co-mingling is acceptable under the following conditions:

- the quantity and quality of waste collected for recycling is not significantly less than that which would result from a fully segregated separate collection.
- the waste is not mixed with other waste that cannot be recycled.
- the waste can meet any relevant quality standard.
- the waste is managed in a manner that promotes high quality recycling.

Co-mingled systems are only acceptable where, following separation at the MRF, the waste streams are of comparable quality to separately collected wastes and can be managed in a way that promotes the priority ‘high quality’ outcomes.

What can I co-mingle?

You cannot mix dry recyclables with any waste which cannot be recycled or would significantly reduce the quality of the material. For example, dry recyclables such as paper and plastic can not be mixed with residual waste or 'wet' waste, such as food, on the presumption that it will be subsequently separated out at a MRF. Such actions would significantly reduce material quality and may render materials unsuitable for 'high quality' recycling.

Some dry recyclables are also best collected separately from other dry recyclables. Co-mingled cans, tins and plastic bottles are easily separated at MRFs. However, the introduction of both paper and glass at the same time in these systems can make separation more difficult and is likely to affect final output quality.

Several UK paper mills are unwilling to accept paper which has been separated from fully co-mingled systems containing glass. Further, glass produced from fully co-mingled systems is likely to be of significantly lower quality than glass collected separately. A significant proportion glass collected in this way is unlikely to be able to go forward to the priority 'high quality' applications² but must instead pass forward to low quality outlets such as aggregates manufacture.

Fully co-mingled systems which include both paper and glass together should therefore be avoided as they are unlikely to produce material of comparable quality to separate collections or comply with the requirement to promote 'high quality' recycling.

A broad summary of collection types and how they fulfil the requirements of the duty to present dry recyclables separately and promote high quality recycling is presented in Table 3.

Table 3 Segregation Summary

Collection Type	Description	Compatibility with Duty
Separate Collection	Each of the dry recyclables separated at source into discrete streams for collection and processing. Includes kerbside sort systems.	This system is most likely to result in material which can go forward for 'high quality' recycling.
Partially Co-Mingled	Some dry recyclables presented together for collection (eg. cans and plastic bottles) for subsequent separation at a MRF.	Acceptable only where separation results in material which is of comparable quality to separately collected material and which go forward for 'high quality' recycling.

²http://www.zerowastescotland.org.uk/sites/files/wrap/ZWS%20Glass%20Options%20Appraisal%20IMR001-002_2.pdf

Fully Co-Mingled	All of the dry recyclables, including paper and glass, presented and collected together in one container and vehicle for subsequent separation at a MRF.	Unlikely to be acceptable. Paper and glass from these systems are likely to be of significantly lower quality than if separately collected and with significant proportions unlikely to be of sufficient quality for 'high quality' recycling.
Survival Bags	Some dry recyclables placed into a sealed, durable bag and collected in the same container and compacted in the same vehicle as residual waste.	Acceptable only where separation results in material which can go forward for 'high quality' recycling.
Residual Waste Sorting	Removal of recyclable materials from mixed municipal waste.	Not compliant with the duty, although treatment of residual waste may still yield material for recycling.

The issue of co-mingling and MRF separation techniques is complex and further measures will be carried forward by Scottish Government to ensure that co-mingled collections can provide material quality which is not significantly less than that which would result from a fully separate collection.

What should I do if I am using a co-mingled system?

The aim of separate collection is to promote 'high quality' recycling through maintaining the purity of the dry recyclables collected. Co-mingled collections carry a greater risk of contamination with;

- a) non-target material – i.e. waste which is potentially recyclable but which was not targeted by the system or the MRF is not designed to handle, and
- b) non-recyclable wastes.

A 2012 study estimates that the average concentration of non-target and non-recyclable wastes entering Scottish MRFs from co-mingled systems is as much as 10.5%.

So, as a waste producer, you have an important role and you must take steps to prevent contamination with non-target and non-recyclable wastes.

You should ensure clear labelling of waste receptacles and provide proper advice to your staff on how to use the chosen recycling system.

Table 4 Recycling service checklist

If you are offered a co-mingled collection, it is reasonable to expect the following from your contractor;

- A collection service tailored to meet the needs of your business, with reliable and regular collections.
- Information on how to use the service effectively (e.g. clean and dry materials) and to avoid contamination by non target and non-recyclable waste.
- Clear labelling of collection receptacles to identify what material should be included and what should be excluded.
- A system of spot checks to assess collected material for non target and non-recyclable materials and feedback identified problems with appropriate advice.
- Target material collected processed to deliver comparable quality to separately collected waste and which can go forward to 'high quality' recycling.

Can I mix glass colours together?

Provided that the mixed glass is subsequently colour separated to the quality required by the glass remelt industry, mixing different glass colours together at source is compatible with the duty to promote 'high quality' recycling.

However, mechanical crushing of mixed glass at source prior to collection results in a significant proportion of fine particles which are too small to be colour sorted. The loss of material which could be used in the remelt industry may exceed 30% by weight. As such, crushing mixed colour glass prior to collection should be avoided where possible.

Can I work with other businesses?

You may have your premises serviced by a facilities management company (e.g. if you share a tenanted property with other organisations). In such cases, the facilities management company may organise waste management services for the whole property. It is worthwhile to review these arrangements regularly to ensure that the waste services are sufficient to discharge your responsibilities.

Appropriate arrangements are required for secure storage, authorised transfer and further management of the material from shared facilities to comply with the duty of care. These may be developed in a bespoke manner to suit individual circumstances.

How will I know that my waste will be recycled?

Waste managers are prohibited from mixing your separately collected recyclable waste with other wastes where such mixing would hamper further

recycling and, from 01 January 2014, from sending it directly to incineration or landfill.

You may also wish to ask your waste contractor to provide you with information on the final destination of the materials you segregate for recycling.

A producer remains responsible according to what he 'knows or should have foreseen'. So if you hand waste to a carrier, and you suspect that your separately collected recyclables are being fly-tipped or are going directly to an incinerator or landfill, you should inform [SEPA](#) through their 24 hour pollution hotline – 0800 80 70 60. You can also use Crimestoppers' [anonymous online report form](#).

Are there any other particular waste types I need to know about?

You must comply with special requirements for certain wastes, such as special waste and those covered under producer take back schemes:

- Waste batteries - See SEPA's guide to [waste batteries](#).
- Waste electrical and electronic equipment. See SEPA's [Guide to WEEE](#).
- Special Waste – See SEPA's [Guide to Special Waste](#).

Step 1b – Establish if you have to segregate food waste, and by when.

Recycling food waste has the potential to bring significant economic and environmental benefits to Scotland. If you operate a food business, you may be required to take all reasonable steps to present food waste for separate collection.

What is a food business?

The Waste (Scotland) Regulations 2012 define food businesses as;

“An undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the processing, distribution, preparation or sale of food”.

This definition is targeted specifically on significant food waste producers. Table 5 provides examples of the type of activities captured by the duty.

Food waste produced in commercial kitchens and by customers who consume food on the premises of a food business is covered by this duty and reasonable steps must be taken to capture that food waste separately.

Waste from food purchased and then discarded by customers off the premises, such as from takeaways, is not covered by this duty. Further, premises where food is brought from elsewhere to be consumed but which

are not food businesses, such as office staff rooms, are not captured by this definition.

Table 5 Food Businesses

Examples of “Food Businesses” include;	
<ul style="list-style-type: none"> • Restaurants • Cafés • Shopping centre food court • Canteens • Hotels • Public Houses that serve food 	<ul style="list-style-type: none"> • Shops that sell food • Supermarkets • Schools & colleges with canteens • Prisons • Nursing Homes • Hospitals

Are there any exemptions?

There are three exemptions from the duty present food waste for separate collection.

- **Rural food business premises**

Rural food businesses are exempt from the requirement to present food waste separately. Rural is defined using the six-fold classification system used by Scottish Government. A searchable .pdf document entitled [“Defining rural and non-rural areas to support zero waste policies”](#) has been published containing all the rural postcodes which benefit from the exemption.

- **Food businesses producing less than 5kg per week**

There is also a de-minimus threshold for food businesses that produce only a very small quantity of food waste. If you consistently produce less than 5kg per week then the duty to present that food waste for separate collection does not apply. 5kg is roughly equivalent to a full domestic kitchen caddy.

- **Food waste that has arisen from international transport**

International catering waste is designated as a Category 1 Animal By-Product and therefore requires specialist management. As such, it does not fall within the scope of this duty.

You are not precluded from using a food waste collection service if you are in a rural area or fall below the 5kg threshold. However, the third exemption for international catering waste is an absolute exemption from the Duty.

When do I have to start?

If you consistently produce 50kg or more food waste per week, the duty starts from 01 January 2014. A 120 litre bin will hold around 60kg of food waste. So,

as a guide, if you fill, or come close to filling a 120 litre bin a week on a regular basis, then you must segregate that food waste and present it for separate collection. If you produce between 5kg and 50kg of food waste per week, the duty starts two years later, on 01 January 2016.

Can I use a macerator to dispose of food waste to a drain or sewer?

Food waste disposers (i.e. macerators) cannot be used to discharge food waste to a drain or sewer in a non-rural area where a separate food waste collection service is available.

Systems which dewater food waste at source and store the solid material for collection and treatment are acceptable if they are configured to maximise the capture of organic material for recycling.

Do I have to remove all packaging from the food waste prior to collection?

Not necessarily, it may be that specialist equipment provided at a treatment facility is able to remove packaging. In such circumstances, it is not necessary to de-package the food waste at the place of production.

Can I compost food waste on my own premises?

Yes, if you compost your own food waste and have a use for the resulting compost, you can continue to do that. The [Paragraph 12 Waste Management Licence Exemption](#) permits the small scale composting of catering waste, including meat.

Can I mix the food waste with any other waste?

Food waste can be mixed with other biodegradable wastes provided that;

- the quantity of food waste presented is comparable to what would have resulted from a separate collection, and
- the food waste can be managed in a way which meets the relevant quality standards and promotes high quality recycling.

The relevant quality standards are PAS100 for composting and PAS110 for anaerobic digestion. Therefore, food waste can only be mixed with the other biodegradable wastes listed in the PAS 100 & 110 standards and only if the resulting mix must be capable of being processed to those standards.

Food waste must not be mixed with other biodegradable wastes which would undermine these quality standards such as mixed municipal waste or sewage sludge. However, it may be possible to collect food waste together with compostable packaging materials.

Step 2 - Prevent the Escape of Waste

You must not allow waste to escape from your control and that of your employees, or the control of others during subsequent transportation.

All waste holders must act to keep waste safe against:

- Spillages from corrosion or wear and tear of containers;
- accidental spilling or leaking or inadvertent leaching from waste unprotected from rainfall;
- accident or weather breaking contained waste open and allowing it to escape;
- waste blowing away or falling while stored or transported;
- scavenging of waste by vandals, thieves or animals.

What must I do when storing Waste?

All waste has the potential to pollute the environment if you do not handle or store it properly. When waste is being stored at your premises you must make sure that;

- waste is stored in **safely and securely** in suitable containers. If you store waste in skips or similar containers, ensure that they are covered or netted so the waste does not blow away. Store waste under cover if rain will prevent it from being reused or recycled, or cause contaminated run-off. Keep waste containers in good condition.
- containers are clearly labelled so that wastes can be properly **segregated** and people know what can and cannot be placed in them. If you reuse containers, make sure that labels are accurate and up to date so that the next holder of the waste can readily identify what the containers hold.
- the waste is stored in a **secure** location with access limited to responsible persons you have identified. If waste is not kept securely, loose materials or specific objects may be blown or washed away or even stolen. Less secure storage may also attract others to scavenge or mix their waste with your own. If this occurs then the waste carrier or contractor may refuse to accept the waste or charge you more.
- liquid wastes and pollutants are prevented from escaping into drains, watercourses or surrounding ground. Store liquid wastes on impermeable surfaces within a secondary containment system. Ideally this should be a bund which is large enough to hold any leaked contents of the storage containers. If you store liquids, refer to SEPA's guide to the [storage and handling of drums & IBCs](#)

Step 3 - Describe Your Waste

You must ensure that any waste being transferred to another holder is covered by a waste transfer note (WTN) including a written description that will enable anyone receiving it to manage it in accordance with their own Duty of Care.

If you have not described the waste properly or failed to inform the next holder the properties of the waste, then you may still be liable if something goes wrong after the waste is transferred.

Waste Transfer Note

The information you pass on to the next holder is contained in the WTN. This is your evidence that the waste was passed on and that it was adequately described. Guidance on the information that a WTN must contain is provided in Chapter 10.

You must keep a copy of the WTN signed by yourself and the person you transfer waste to for **two** years. This can be an electronic copy, including electronic signatures, provided an enforcement officer can view it. You also need to keep any additional information about the waste with this note such as any analysis results.

A '**season ticket**' system can be used for waste of the same description which is transferred between the same transferor and transferee for a period up to 12 months. This avoids the need for a separate WTN for each waste load transferred although you should keep a log of individual loads collected from you under season ticket arrangements. "Season tickets" can be used, for example, for the weekly collection of waste from shops or repeat journeys of excavated materials from a construction project. Provided all the required information is contained on it and both parties have signed it, an invoice can be used as a WTN.

If the waste is Special Waste you have the same obligations under the Duty of Care. However, a [consignment note](#), rather than a WTN, is required to comply with the [Special Waste \(Scotland\) Regulations 1996 \(as amended\)](#).

What is an adequate description?

An adequate description will depend upon the nature of the waste and any treatment or sorting processes that it has already been through. As waste producer you are best placed to describe your waste, especially if it originates from your process or activity.

The description must include any special problems associated with the waste in order for subsequent holders to handle the waste properly. For example;

- Can the waste be accepted at the intended waste management site?
- Can it be disposed of safely in a landfill site with other waste?

- Does the waste need a special container to prevent its escape or to protect it from the elements, e.g. loose waste?
- Does the waste require particular treatment or separate handling, e.g. dry recyclables, food waste, contaminated soil, batteries or WEEE?
- Is it likely to change its physical state during storage or transport, e.g. might it give off gas or become liquid, in which case sufficient headspace will need to be provided in containers?
- Are there any other issues with the waste which others should be aware of (smell, liquids leaching from the waste, etc)?

Waste described as “general rubbish” or “muck” does not constitute an adequate description.

Step 4 - Waste must only be transferred to an Authorised Person

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.

Authorised persons are [Registered Waste Carriers](#), such as waste management companies, or registered Professional Carriers and Transporters of waste such as Local Authorities and charities/voluntary organisations.

If you normally and regularly carry your own waste to a recycling or treatment facility, you will need to register as a [Professional Carrier and Transporter of Waste](#).

Your Duty of Care as a producer of waste extends along the entire chain of management of the waste. The Duty is not discharged on handing over the waste to the next holder. You should take reasonable steps to make sure that the waste will be managed correctly and legally.

What must I do to check authorised persons details?

The detail of the checking required will depend on the quantity or nature of the waste you produce. As a minimum you must ask for:

- A copy of the carrier’s registration certificate and check this against SEPA’s online [public registers](#) to confirm that it is genuine and valid.
- Confirmation of the broker/dealers registration and check this against the SEPA’s public register. If you choose to engage a waste broker to identify suitable carriers and/or waste management options for your waste then you will share equal responsibility for how the waste is stored, transported and ultimately managed. You must ensure any broker you use has a valid registration and check this against the SEPA’s online [public registers](#).
- The reference number of the receiving site’s Licence or Permit so that you can, if necessary, check this with [SEPA’s local teams](#) to confirm

that it is genuine and valid and evidence that it allows for deposit of your type of waste.

It is advisable to re-check carrier registration from time to time as many carrier registrations are renewable every three years and in some circumstances SEPA may have cancelled or revoked the registration.

You should also know where the carrier takes your waste for onward management. This is particularly relevant if you produce:

- large amounts of waste,
- waste which can be difficult to manage e.g. hazardous waste
- waste which is commonly flytipped (eg tyres).

You should be aware of the destination of the waste and check the site's Licence or Permit reference number so that you can, if necessary, check with [SEPA's local teams](#) that the site is genuine and is allowed to accept the waste.

Where waste might be exported?

If your waste is to be (or is likely to be) exported, then you must establish whether the waste meets the criteria for recycling or other recovery in the receiving country. It is illegal to export waste for disposal. Non-hazardous waste destined for recycling in another country is referred to as [Green List Waste](#). Both you and any broker or dealer involved must retain documents for **three** years.

If you are a waste producer and you are sending waste to a facility that may be involved in the export of waste, you should ensure that you have sufficient information to satisfy yourself that any waste that is collected from you is exported legally. In the event that waste produced by you is subsequently shipped illegally, you may be liable for the costs of return and subject to enforcement action.

Step 5 - Prevent Your Waste Causing Harm or Pollution

Harm to human health or pollution of the environment may be caused by the unauthorised or inappropriate management of waste. It is important that you do not pass your waste onto someone who may be involved in illegal waste activities.

What do I need to do to prevent Harm or Pollution?

Allowing waste to escape from your control, such as causing litter, allowing liquids to leak from containers and so on are examples of where harm can be caused whilst you hold the waste and this is covered in Step 2.

Further, the burning of waste such as construction waste or packaging may result in harm and, except in very restricted circumstances, is illegal.

A producer remains responsible according to what he 'knows or should have foreseen'. So if you hand waste to a carrier, not only must it be properly packaged when transferred, but you should take account of anything you see or learn about the way in which the carrier is subsequently handling it. For example, you:

- should be suspicious of people or businesses offering unrealistically cheap waste services. This may be a sign that the waste is not being legally managed.
- would not be expected to follow the carrier, but you may wish to determine that waste has subsequently arrived at its intended destination especially if the waste has particular problematic or hazardous properties. You can do this by requesting weighbridge or tip tickets or email confirmation.
- may wish to visit the site where your waste is managed or to ask the carrier or broker for a statement of end-use or final destination along with your invoice.
- should be able to see whether the waste is loaded securely for transport when it leaves your premises. If it later falls off the vehicle you could be liable.
- may notice a carrier's lorries returning empty for further loads in a shorter time than they could possibly have taken to reach and return from the proposed waste management site.
- may notice a carrier apparently engaged in the fly-tipping of someone else's waste. These would be grounds for suspecting the illegal handling of your waste by the carrier.

A producer should act on any knowledge to stop the illegal handling of waste. Whenever you become aware that your waste is being illegally dealt with you should inform [SEPA](#) through their 24 hour pollution hotline – 0800 80 70 60. You can also use Crimestoppers' [anonymous online report form](#).

5 Your Obligations as a Waste Collector

This section offers guidance to any person who collects, carries or transports waste. This includes those who design and operate waste collection services such as waste collection contractors, local authorities and others.

You must comply with the duties in Section 34 whilst the waste is in your possession and when you transfer your waste to somebody else. Failure to comply with these duties may result in enforcement action being taken against you. In addition to the penalties under the 1990 Act, you could also lose your registration to carry waste.

What are my responsibilities?

As a waste collector, you must:

- Apply the waste hierarchy as a priority order to all waste that you collect and ensure recycling services are designed and operated to promote 'high quality' recycling.
- From 01 January 2014, collect and carry dry recyclable and food waste that has been presented to you separately by your customer.
- Ensure recyclable materials are not mixed with other wastes in a manner which may hamper recycling whilst you are the holder.
- Check that the transfer note is correctly completed and that it contains sufficient information to enable you to manage the waste properly and safely.
- Be registered to carry waste with SEPA ([if you are required to be registered](#)).
- Ensure your waste is transferred to someone who is authorised to receive it.
- Take reasonable measures to ensure that your waste does not cause pollution or harm to human health.

This means that, in the course of your activity as a waste collector and carrier, you must take the following steps:

Step 1a – Apply the waste hierarchy and collect the listed dry recyclable waste types separately

You must take all reasonable steps to apply the waste hierarchy as a priority order to the management of your waste and promote 'high quality' recycling. The Waste Hierarchy Guidance describes the order for a range of common waste streams and further advice on how to apply it. As the key service provider and the bridge between waste producers and the reprocessing sector, you have a crucial role. Recycling services must be designed and operated to yield waste of sufficient quality to support the priority 'high quality' outcomes.

To help waste producers comply with their duty, it is necessary for the waste industry, as a whole, to provide services which support the separate collection of dry recyclables and promote 'high quality' recycling. The best way to do this

is to provide a fully segregated recycling service to your customers. From 01 January 2014, it is the duty of waste producers to take all reasonable steps to present at least the following key dry recyclables for separate collection;

- metals;
- glass;
- plastics;
- paper; and
- card (including cardboard).

It is the duty of waste collectors to collect and transport these waste streams separately from other wastes.

A well operated recycling system should ensure a high capture rate with very little, if any, dry recyclables left in the residual stream.

When collecting mixed or residual waste, it may be apparent that the producer does not segregate dry recyclables for recycling or only does so very poorly. Such practice is not compliant with the duty and you should advise the producer of their duty and where to go for further support.

Mixed or residual waste collections may still be required but only where they are complementary to a separate recycling service as part of an overall waste management solution.

It should be noted that some sub-categories of these materials are not readily recyclable. For example, pyrex glass does not currently have a recycling outlet and therefore it is not expected that producers segregate it or collectors collect it separately from residual waste.

What must I do when collecting dry recyclables?

The Waste (Scotland) Regulations 2012 define separate collection as when;

“Waste is presented for collection, and collected, in a manner that ensures that—

- (i) dry recyclable waste is kept separate from other waste;
- (ii) waste from one dry waste stream is kept separate from waste in another such stream.”

Therefore, separate collection means waste stream specific separation. That is to say, a separate container is required for each dry recyclable and the subsequent handling must be sufficient to maintain that separation through the management chain.

Kerbside sort systems, where the waste producer places the dry recyclables in the same container for subsequent sorting by the waste collector into

different vehicle compartments at the point of collection are considered to be equivalent to separate collection.

Is full material separation always necessary?

Complete segregation of the key dry recyclables is the first option and should be prioritised when designing collection systems. In many cases it will be possible to fully segregate materials; for example, most office premises should be able to segregate waste paper, metal cans and plastic bottles for collection separately from each other.

However, the introduction of fully separate collection systems may not be practicable in all circumstances and full segregation may not be necessary provided the aim of high quality recycling can be achieved just as well with a form of co-mingling. Co-mingled collections are where some, or all, of the key dry recyclables are collected together in the same container (but still separate from mixed or general waste) and later sorted at a Materials Recycling Facility (“MRF”).

In order to accommodate these cases, the Regulations provide derogation from the requirement for separate collection and co-mingling is acceptable under the following conditions:

- the quantity and quality of waste recycled is not significantly less than that which would result from a separate collection.
- The waste is not mixed with other waste that cannot be recycled.
- The waste can meet any relevant quality standard.
- The waste is managed in a manner that promotes high quality recycling.

If you offer a co-mingled collection to your customers, you must ensure that collection, transport and separation results in wastes which are of comparable quality to separately collected wastes and can be managed in a way that promotes the ‘high quality’ outcomes set out in the waste hierarchy guidance.

How should I operate a co-mingled collection service to deliver high quality?

The aim of separate collection is to promote ‘high quality’ recycling through maintaining the purity of the waste collected. Co-mingled wastes sorted at a MRF face quality problems from a number of sources. Services must be designed to:

- avoid co-mingling with inappropriate waste types,
- minimise the risk of producers putting non-target and non-recyclable waste into the collection, and
- avoid over compaction of the waste which can bind, break and change the shape of materials.

You cannot offer services which seek to intentionally mix dry recyclables with waste which can not be recycled or would significantly reduce the quality of

the material. For example, dry recyclables can not be mixed with residual waste or food waste as this would significantly reduce material quality and may render materials unsuitable for 'high quality' recycling.

Some dry recyclables are also best collected separately from other dry recyclables. Co-mingled cans, tins, plastic bottles and tetrapak are easily separated at MRFs. However, the introduction of both paper and glass at the same time in these systems can make separation more difficult and is likely to affect final output quality.

Several UK paper mills are unwilling to accept paper which has been separated from fully co-mingled systems containing glass. Further, glass produced from fully co-mingled systems is likely to be of significantly lower quality than glass collected separately and a significant proportion glass collected in this way will be unlikely to go forward to the priority 'high quality' applications³ but instead pass forward to low quality outlets such as aggregates manufacture.

Fully co-mingled systems which include both paper and glass together should therefore be avoided as they are unlikely to comply with the derogation or the duty to promote 'high quality' recycling.

A broad summary of collection types and their compliance with the duty to collect key materials separately and promote high quality recycling is presented in Table 6.

Table 6 Segregation Summary

Collection Type	Description	Compatibility with Duty
Separate Collection	Each of the dry recyclables separated at source into discrete streams for collection and processing. Includes kerbside sort systems.	This system is most likely to result in material which can go forward for 'high quality' recycling.
Partially Co-Mingled	Some dry recyclables presented together for collection (eg. cans and plastic bottles) for subsequent separation at a MRF.	Acceptable only where separation results in material which is of comparable quality to separately collected material and which go forward for 'high quality' recycling.
Fully Co-Mingled	All of the dry recyclables, including paper and glass, presented and collected together in one container and vehicle for subsequent separation at a MRF.	Unlikely to be acceptable. Paper and glass from these systems are likely to be of significantly lower quality than if separately collected and unlikely to be of sufficient quality for 'high quality' recycling.

³http://www.zerowastescotland.org.uk/sites/files/wrap/ZWS%20Glass%20Options%20Appraisal%20IMR001-002_2.pdf

Survival Bags	Some dry recyclables placed into a sealed, durable bag and collected in the same container and compacted in the same vehicle as residual waste.	Acceptable only where separation results in material which can go forward for 'high quality' recycling.
Residual Waste Sorting	Removal of recyclable materials from mixed municipal waste.	Not compliant with the duty, although treatment of residual waste may still yield material for recycling.

A 2012 study estimates that the average concentration of non-target and non-recyclable wastes entering Scottish MRFs from co-mingled systems is as much as 10.5%.

As a service provider and collector of waste you should provide information to your customers on how to use the co-mingled service effectively. Advice should cover keeping materials clean and dry and avoiding contamination by non-target and non-recyclable waste. Receptacles should be labelled to clearly identify the target waste streams. Spot checks should be carried out to identify contamination and advice provided to producers to reduce reoccurrences.

You must consider how you compact the dry recyclables you collect as it can have an effect on quality. While not as important as minimising contamination with non-target and non-recyclable material at source, compaction may have the following effects;

- items changing shape. Three-dimensional objects such as containers can be flattened and lead to mis-sorting by ballistic separators, with these items ending up in the paper stream.
- reduction in particle size, resulting in more fine material. This can increase the residue rate of a MRF as a result of target material being mis-sorted and makes manual picking more difficult.
- items being compacted together to form multi-material items that are either rejected or become contamination. This can be a particular issue for metals, since compacted metals retain their shape.

The issue of co-mingling and MRF separation techniques is complex and further measures will be carried forward by Scottish Government to ensure that co-mingled collections can provide material quality which is not significantly less than that which would result from a fully separate collection.

Table 7 Recycling Service Checklist

As a collector, it is reasonable to provide the following to your customer;

- A collection service tailored to meet the needs of your customer, with reliable and regular collections.
- Information on how to use the service effectively (e.g. clean and dry materials) and to avoid contamination by non-target and non-recyclable wastes.
- Clear labelling of collection receptacles to identify what material should be included and what should be excluded.
- A system of spot checks to assess collected material for non target and non-recyclable materials and feedback identified problems with appropriate advice.
- Target material collected processed to deliver comparable quality to separately collected waste and which can go forward to 'high quality' recycling.

Can I collect glass as mixed colour?

If the mixed glass is subsequently colour separated to the quality required by the glass remelt industry, mixing different glass colours together at source is compatible with the duty to promote 'high quality' recycling.

Specifically with respect to separate collections of mixed colour glass, limited compaction at source and in the collection vehicle means that optical colour separation technology can be employed to ensure glass cullet at a quality suitable for remelt. If glass is broken into too small pieces, colour separation is not possible and a significant proportion of the glass may not be able to go forward for 'high quality' recycling.

Are there any other particular waste types I need to know about?

You must comply with special requirements for certain wastes, such as special waste and those covered under producer take back schemes:

- Waste batteries - See SEPA's guide to [waste batteries](#).
- Waste electrical and electronic equipment. See SEPA's [Guide to WEEE](#)
- Special Waste – See SEPA's [Guide to Special Waste](#).

Step 1b – Provide a Food Waste Collection

Recycling food waste has the potential to bring significant economic and environmental benefits to Scotland. If you provide waste services to food businesses, you may be required to take all reasonable steps ensure they comply with their duty to present food waste for separate collection.

What is a food business?

The Waste (Scotland) Regulations 2012 define food businesses as;

“An undertaking, whether for profit or not, and whether public or private, carrying out any activity related to the processing, distribution, preparation or sale of food”.

This definition is targeted specifically on significant food waste producers. Table 8 provides examples of the type of activities captured by the duty.

Food waste produced in commercial kitchens and by customers who consume food on the premises of a food business is covered by this duty and reasonable steps must be taken to capture that food waste separately.

Waste from food purchased and then discarded by customers off the premises, such as from take aways, is not covered by this duty.

Further, premises where food is brought from elsewhere to be consumed but which are not food businesses, such as office staff rooms, are not captured by this definition.

Table 8 Food Businesses

Examples of “Food Businesses” include;	
<ul style="list-style-type: none">• Restaurants• Cafés• Shopping centre food courts• Canteens• Hotels• Public Houses that serve food	<ul style="list-style-type: none">• Shops that sell food• Supermarkets• Schools & colleges with canteens• Prisons• Nursing Homes• Hospitals

Are there any exemptions?

There are three exemptions from the duty present food waste for separate collection.

▪ Rural food business premises

Rural food businesses are exempt from the requirement to present food waste separately. Rural is defined using the six-fold classification system used by Scottish Government. A document entitled [“Defining rural and non-rural areas to support zero waste policies”](#) has been published containing all the rural postcodes which benefit from the exemption.

You may still offer a food waste collection service to premises in rural areas. However, uptake will be at the discretion of the producer.

- **Food businesses producing less than 5kg per week**

There is also a de-minimus threshold for food businesses that produce only a very small quantity of food waste. Food businesses which consistently produce less than 5kg per week do not have to present that food waste for separate collection. 5kg is roughly equivalent to a full domestic kitchen caddy.

You may still offer a food waste collection service to premises which fall under the de-minimus threshold. However, uptake will be at the discretion of the producer.

- **Food waste that has arisen from international transport**

International catering waste is designated as a Category 1 Animal By-Product and therefore requires specialist management. As such, it does not fall within the scope of this duty.

When do food businesses have to comply?

For food businesses which consistently produce 50kg or more food waste per week, the duty starts from 01 January 2014. A 120 litre bin will hold around 60kg of food waste. So, as a guide, if your customer fills, or come close to filling a 120 litre bin a week on a consistent basis, then the waste service must include the separate collection of food waste.

For food businesses which produce between 5kg and 50kg of food waste, the duty starts two years later, on 01 January 2016.

What if my customer uses a macerator to dispose of food waste to a drain or sewer?

Food waste disposers (i.e. macerators) cannot be used to discharge food waste to a drain or sewer in a non-rural area where a separate food waste collection service is available.

Systems which dewater food waste at source and store the solid material for collection and treatment are an acceptable form of management only where they are configured to maximise the capture of organic material.

Does all packaging from the food waste prior to collection?

Not necessarily, it may be that specialist equipment provided at a treatment facility is able to remove packaging. In such circumstances, it is not necessary to de-package the food waste at the place of production.

Can food businesses compost food waste on their premises?

Yes, if a food business composts their own food waste and have a use for the resulting compost, they can continue to do that. The [Paragraph 12 Waste Management Licence Exemption](#) permits the small scale composting of catering waste, including meat.

Can food waste be mixed with any other waste?

Food waste can be mixed with other biodegradable wastes provided that;

- the quantity of food waste presented is comparable.
- the food waste can be managed in a way which meets the relevant quality standards and promotes high quality recycling.

The relevant quality standards are PAS100 for composting and PAS110 for anaerobic digestion. Therefore, food waste can only be mixed with other biodegradable wastes listed in the PAS 100 & 110 standards and only if the resulting mix can still be processed to those standards.

Food waste must not be mixed, either at source, in the collection vehicle or at the processing facility, with waste which would undermine these quality standards such as residual municipal waste or sewage sludge. However, it may be possible to collect food waste together with compostable packaging materials.

Step 2 - Prevent the Escape of Waste

You must not allow any waste materials to escape from your control during transport. Vehicles and containers must be suitable for holding the waste so that it does not escape during transport and management e.g. containers should not be overloaded and open containers should be securely netted or covered to prevent waste from falling out.

What should I look out for when collecting waste?

When you collect waste from any premises you must ensure:

- Waste is being stored in a **secure** location and in suitable containers for both transport and subsequent management. If the waste is kept in a less secure location, other parties may have mixed their waste with that for which you have the contract. This means that the waste may not correspond to the description you have been given.
- Waste is being stored so that recyclable waste materials are kept **separate** from mixed waste and are not significantly contaminated with non-target and non-recyclable waste.

- Where waste is stored in containers, these should be clearly **labelled** with their contents so that you know what the wastes are and can confirm that you are collecting the correct waste. Containers must be stored safely and leakage prevented and/or controlled.
- Container labels should clearly **describe** the properties of the waste so that you and the next holder know what measures are required to store and transport the waste safely.
- If you consider that the containers are unsafe you have a duty not to transport them in that state. You must re-pack the waste, or arrange for its re-packaging, until you are satisfied that the waste can be transported safely.
- Open containers which are stored outside may contain rainwater. This might escape during transit and may be contaminated after being in contact with waste. It could also make the load unstable for transport. This would be an indication that on-site storage was not adequately safe and secure.

Identified issues should be discussed with the client and an appropriate remediation plan agreed.

Step 3 – Describing the Waste

Waste Transfer Note

You must ensure that any waste you collect is covered by a waste transfer note (WTN). You must also ensure that any waste being transferred from you to another holder is covered by a WTN. WTNs are your evidence that you collected that waste and passed on and that it was adequately described. Guidance on the information that a transfer note must contain is provided in Chapter 10.

The WTN must include a written description that will enable you and anyone subsequently receiving it to manage it in accordance with the Duty of Care. If the waste is not properly described or you have or failed to inform the next holder the properties of the waste, then you may still be liable if something goes wrong after the waste is transferred.

The person you are collecting the waste from should be able to provide you with the information you need but you need to confirm that it is correct and that you can meet your own obligations

You should know what and how much waste you are contracted to collect, so that when you arrive to collect any waste you should, as a minimum be able to inspect the waste to ensure that it corresponds to the description given to you. It is particularly important to note any waste that may require separate handling or particular treatment (e.g. batteries, WEEE).

You must keep a copy of the transfer note signed by yourself and the person you transfer waste to for **two** years. This can be an electronic copy, including electronic signatures, provided an enforcement officer can view it. You also need to keep any additional information about the waste with this note such as any analysis results.

A '**season ticket**' system can be used for waste of the same description which is transferred between the same transferor and transferee for a period up to 12 months. This avoids the need for a separate transfer note for each waste load transferred although you should keep a log of individual loads collected from you under season ticket arrangements. "Season tickets" can be used, for example, for the weekly collection of waste from shops or repeat journeys of excavated materials from a construction project. Provided all the required information is contained on it and both parties have signed it, an invoice can be used as a WTN.

If the waste is Special Waste you have the same obligations under the Duty of Care. A [consignment note](#), rather than a transfer note, is required to comply with the [Special Waste \(Scotland\) Regulations 1996 \(as amended\)](#).

What is an adequate description?

An adequate description will depend upon the nature of the waste and any treatment or sorting process that it has already been through. The waste producer must be able to adequately describe waste that has arisen from their processes. They may also be able to provide detailed safety information about specific waste materials. The description they provide must include details such as:

- Can the waste be accepted at the intended waste management site?
- Can it be disposed of safely in a landfill site with other waste?
- Does the waste need a special container to prevent its escape or to protect it from the elements, e.g. loose waste?
- Does the waste require particular treatment or separate handling, e.g. dry recyclables, food waste, contaminated soil, batteries or WEEE?
- Is it likely to change its physical state during storage or transport, e.g. might it give off gas or become liquid, in which case sufficient headspace will need to be provided in containers?
- Are there any other issues with the waste which others should be aware of (smell, liquids leaching from the waste, etc)?

Waste described as "general rubbish" or "muck" would not constitute an adequate description. You may need to get advice from the site waste manager to answer some of these.

Step 4 - Waste must only be transferred to an Authorised Person

The person you are collecting waste from is expected to check that you are appropriately registered with SEPA to carry their waste. You must ensure that

your carrier registration is valid and the details correct. You must be able to provide evidence of registration on request.

Who needs to register as a waste carrier?

All people who normally and regularly transport waste, whether that waste is produced by them in the course of their business, or by others, should be [registered as a waste carrier](#). There are some exemptions from the requirement to register.

If you are uncertain whether you should be registered your local SEPA office can advise you.

The person you are collecting waste from should also ask where you are taking their waste, in order to fulfil their own duty of care. You must ensure that the person or business you pass the waste on to is appropriately authorised to receive it.

What must I do to check authorised persons details?

When you carry waste you should determine the nature of the next holder. You must make sure that any person or business you supply with waste is authorised to accept it. All sites managing waste for treatment and/or disposal are required to hold an appropriate permit, licence or exemption.

The Waste (Scotland) Regulations 2012 extend the range of waste types banned from incineration and landfill. From 01 January 2014, you must not take separately collected recyclable materials – paper, card, plastics, metal, glass and food waste directly for incineration or landfill. Also, after 01 January 2021, all biodegradable municipal waste will be banned from landfill.

As a carrier you must take all reasonable measures to ensure that you do not take waste to a site which is not authorised to accept it. Information on the transfer note will help you to comply with your Duty of Care.

As a minimum you should ask for:

- The reference number of the site's Licence or Permit so that you can check this against SEPA's [public registers](#) to confirm that it is genuine and valid and evidence that it allows for deposit of the waste you are carrying.
- Confirmation from SEPA if you are at all unsure whether the site can accept the waste.
- A description of the waste on the transfer note which is adequate for you to be reasonably certain that the waste can be accepted at the next site.

If you are a waste collecting agent or carrier and you are sending waste to a facility that may be involved in the export of waste, you must ensure that you have sufficient information to satisfy yourself that any waste that is collected by you or on your behalf that may be exported is done so legally.

In the event that waste collected by you is subsequently shipped illegally, you may be liable for the costs of return and subject to enforcement action.

Step 5 - Prevent Your Waste Causing Harm or Pollution

Harm or pollution can be result from the unauthorised or inappropriate deposit, treatment, recovery or disposal etc of waste.

What do I need to do to prevent Harm or pollution?

A carrier is responsible according to what he 'knows or should have foreseen'. You will share responsibility with the waste producer to ensure that the waste is delivered satisfactorily to the next holder. This includes taking account of anything you see or learn about the way the next holder deals with the waste. For example:

- You should be suspicious of people or businesses offering unrealistically cheap waste services. This may be a sign that the waste is not being legally managed.
- It may be clear that waste is being dealt with in a way that is not best or usual practice. There may be activities going on at a site which you think may be illegal, such as burning.
- You may notice that a waste manager or subsequent carrier mixing separately collected recyclables with other waste types with different properties. This undermines the effort put into source segregation and separate collection, lowering the quality of recyclate and increases the risk of illegal exports.
- You may notice that a waste manager is accepting too much waste and that the extra waste you are delivering could add to problems at the site.
- You may notice that subsequent holders are allowing waste to escape from their control e.g. causing litter, allowing liquids to leak out of containers. You may notice activities suggesting that they are engaged in fly-tipping.

These would be grounds for suspecting that harm is being caused or is likely to be caused if you continue to deposit waste there. A carrier should act on any knowledge to stop the illegal handling of waste.

Whenever you become aware that your waste is being illegally dealt with you should inform [SEPA](#) through their 24 hour pollution hotline – 0800 80 70 60. You can also use Crimestoppers' [anonymous online report form](#).

6 Your Obligations as a Waste Manager

This section offers guidance to any person involved in the reuse, recycling, recovery, treatment and disposal of waste. Waste managers include operators of transfer stations, sorting facilities, treatment sites, incineration facilities and landfills.

What are my responsibilities?

As a waste manager, how you manage the waste when it is in your possession can have an impact on the way it will be subsequently managed by others. You have a duty to take all reasonable measures to comply with the duties in Section 34 whilst the waste is in your possession and when you transfer your waste to somebody else. You need to satisfy yourself that you can accept the waste and manage it in an appropriate way.

As a waste manager, you must:

- Apply the waste hierarchy as a priority order to the management of your waste and in a way which promotes high quality recycling.
- Do not mix recyclable waste with other waste in a manner which may hamper further recycling.
- Ensure that you hold the appropriate environmental permit or exemption which allows you to accept and manage the waste at your site.
- Manage waste safely without causing pollution of the environment or harm to human health, in accordance with the conditions of your environmental permit or exemption.
- Ensure that the transfer of waste both into and out of your site is covered by a waste transfer note including an adequate description of the waste and signatures of those transferring the waste to you or receiving waste from you.
- Ensure that the description of the waste you receive is accurate and contains all the information necessary for safe handling, treatment, recovery or disposal.

This means that, in addition to complying with the conditions of your environmental permit, you must take the following steps:

Step 1 – Apply the waste hierarchy and maintain recycle quality

You must take all reasonable steps to apply the waste hierarchy as a priority order to the management of your waste and promote 'high quality' recycling. The Waste Hierarchy Guidance describes the order for a range of common waste streams and further advice on how to apply it. You must ensure that any recycling services you manage are operated in a manner that supports the priority outcomes.

From 01 January 2014, it is the duty of waste producers to take all reasonable steps to present at least the following key dry recyclables for separate collection;

- metals;
- glass;
- plastics;
- paper; and
- card (including cardboard).

However, there will still be a residual waste stream that requires proper management. As a waste manager, you may manage both recycling operations and residual waste recovery and disposal operations.

What if I am handling dry recyclables?

If you are handling source segregated or co-mingled dry recyclables, you must manage them in a way which prioritises the 'high quality' recycling outcomes as set out in the Waste Hierarchy Guidance. This means preventing them from being mixed with other waste types to the extent that it would hamper further recycling.

You cannot mix dry recyclables with any waste which cannot be recycled or would significantly reduce the quality of the material. For example, dry recyclables such as paper and plastic can not be mixed with residual waste or 'wet' waste, such as food. Such actions would significantly reduce material quality and may render materials unsuitable for 'high quality' recycling.

If you export dry recyclables, you should refer to Section 7 of this guidance.

The issue of co-mingling and MRF separation techniques is complex and further measures will be carried forward by Scottish Government to ensure that co-mingled collections can provide material quality which is not significantly less than that which would result from a fully separate collection.

It should be noted that separately collected dry recyclables will be banned from being taken directly to incineration or landfill from 2014. However, this ban does not apply to fines and rejects from a MRF sorting process.

Step 2 - Prevent the Escape of Waste

You must not allow any waste materials to escape from your control and that of your employees, or the control of others during subsequent transport.

When waste is being managed at your premises you need to make sure that;

- you are **authorised to accept** that waste and do not exceed the quantities of waste you are permitted to manage at any one time. If too much waste is accepted or stored at your site there may be problems with litter, spillages, odour. etc
- waste is managed in accordance with the conditions of your environmental permit or exemption.

- waste is stored in a **secure** location where access to it is limited to authorised persons. If waste is kept in a less secure location, loose materials or specific objects may be blown or washed away or even stolen. Adequate security should be in place to prevent vandalism such as fires.
- containers or bays are clearly **labelled** with their contents so that people can identify what they hold.
- waste is stored **safely**. If you store waste in skips or other similar containers, ensure that they are covered or netted. Store waste under cover if rain will prevent it from being managed properly or cause contaminated run-off. Keep waste containers in a good condition.
- take measures to **prevent pollution**. You must prevent liquid wastes and leakages from escaping into drains, watercourses or surrounding ground. Store liquid wastes on impermeable surfaces within a secondary containment system. Ideally this should be a bund which is large enough to hold the leaked contents of the storage containers. If you store liquids, refer to SEPA's guide to the [storage and handling of drums & IBCs](#)

Step 3 – Describe the Waste

You must ensure that any waste you receive or pass on is accompanied by a completed WTN including an adequate written description that will enable you to manage it in accordance with your obligations under the Duty of Care and your licence, permit or exemption.

You should know what and how much waste you are contracted to receive. When the waste arrives you should inspect it to ensure that it corresponds to the description given to you. You should be able to check that there are no items which do not correspond to the description. The person passing the waste to you should provide you with the information you need and you should be content that it is correct and sufficient for you to meet your own obligations.

The WTN is your evidence of a transfer of waste. You will have to produce it when asked by an enforcement officer. You must keep a copy of the WTN signed by yourself and the person you accepted the waste from, or transferred the waste to, for **two years**. You will have to produce it when asked by an enforcement officer. This can be an electronic copy, including electronic signatures, provided an enforcement officer can view it. You also need to keep any additional information with this note such as any analysis results. Guidance on the information that a transfer note must contain is provided in Chapter 10.

If you receive the same type of waste from the same producer and waste carrier regularly then you may use a “**season ticket**” type of arrangement to cover these transfers to you. This system can be used for a period up to 12 months and prevents the need for a transfer note to be produced for every waste load transferred. However this ‘season ticket’ can only be used for waste of the same description transferred to the same transferee.

If the waste is Special Waste you have the same obligations under the Duty of Care. A [consignment note](#), rather than a WTN, is required to comply with the [Special Waste \(Scotland\) Regulations 1996 \(as amended\)](#).

If the waste is not described properly or the description is inadequate to inform the next holder of relevant waste properties, then you may still be liable if something goes wrong after the waste is transferred.

What is an adequate description?

An adequate description will depend upon the nature of the waste and any treatment or sorting processes that it has already been through. The transferor of the waste must provide information in order to help you to answer such questions as:

- Does the waste need a special container to prevent its escape or to protect it from the elements?
- Does the waste require particular treatment or separate handling?
- Can it be disposed of safely with other wastes?
- Is it likely to change its physical state during storage, e.g. might it give off a gas or become liquid?
- Can it be mixed safely with any other waste or are there wastes with which it should not be mixed, for example, at a waste transfer station?
- What procedure do you have in place if problems arise with waste once it has been unloaded from the vehicle?

Best practise suggests that all transfer notes should contain information on any treatment processes the waste that they are covering has been through.

Step 4 - Waste must only be transferred to an Authorised Person

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 for the effort to tackle waste crime.

Authorised persons are [Registered Waste Carriers](#), such as waste management companies, or registered Professional Carriers and Transporters of waste such as Local Authorities and charities/voluntary organisations.

If you normally and regularly carry your own waste to a recycling or treatment facility, you will need to register as a [Professional Carrier and Transporter of Waste](#).

Your Duty of Care as a producer of waste extends along the entire chain of management of the waste. The Duty is not discharged on handing over the waste to the next holder. You should take reasonable steps to make sure that the waste will be managed correctly and legally.

What must I do to check authorised persons details?

The detail of the checking required will depend on the quantity or nature of the waste you produce. As a minimum you must ask for:

- A copy of the carrier's registration certificate and check this against SEPA's online [public registers](#) to confirm that it is genuine and valid.
- Confirmation of the broker/dealers registration and check this against the SEPA's public register. If you choose to engage a waste broker to identify suitable carriers and/or waste management options for your waste then you will share equal responsibility for how the waste is stored, transported and ultimately managed. You must ensure any broker you use has a valid registration and check this against the SEPA's online [public registers](#).
- The reference number of the site's Licence or Permit so that you can, if necessary, check this with [SEPA's local teams](#) to confirm that it is genuine and valid and evidence that it allows for deposit of your type of waste.

It is advisable to re-check carrier registration from time to time as many carrier registrations are renewable every three years and in some circumstances SEPA may have cancelled or revoked the registration.

You should also know where the carrier takes your waste for onward management. This is particularly relevant if you manage:

- large amounts of waste,
- waste which can be difficult to manage e.g. hazardous waste
- waste which is commonly flytipped (eg tyres).

You should be aware of the destination of the waste and check the site's Licence or Permit reference number so that you can, if necessary, check with [SEPA's local teams](#) that the site is genuine and is allowed to accept the waste. It might also be prudent to visit the site where your waste is subsequently managed or to ask the carrier or broker for a statement of end-use or final destination along with your invoice. For example, you could request weighbridge tickets from your waste carrier.

Where waste might be exported

If your waste is to be (or is likely to be) exported, then you must establish whether the waste meets the criteria for recycling or other recovery in the receiving country. It is illegal to export waste for disposal. Non hazardous

waste destined for recycling in another country is referred to as [Green List Waste](#). Both you and any broker or dealer involved must retain documents for **three** years.

In the event that waste managed by you is subsequently shipped illegally, you may be liable for the costs of return and subject to enforcement action.

Waste dealers and traders are often involved where waste is exported. Waste brokers, dealers or traders must be registered in that capacity with SEPA. Both you (the current holder) and any broker or dealer involved should retain documents, including any waste description, with any additional information for a minimum of **three years** when waste is exported.

You should ask the person to whom you transfer the waste whether the waste is likely to be reprocessed in another country and be alert for any suspicion that waste might be exported.

Indications that waste might be exported include:

- Is the waste being transported in a shipping container?
- Is waste being transported directly to a port or railhead?
- Was the transport arranged by a freight forwarder?
- Were the arrangements made by a carrier, broker or dealer operating outside UK jurisdiction?
- Have registration details of the broker or dealer been difficult to establish?
- Has HM Revenue & Customs clearance been applied for and obtained?
- Are transport routes to the final country of destination identified?
- Have you been asked to provide or sign a note for the international carriage of good by road (CMR note) or rail (CIM note)?
- Have you been asked to place an 'Annex VII' form in to the container?
- Is the destination of the waste unclear?

Step 5 – Prevent waste causing harm or pollution

Harm to human health or pollution of the environment may be caused by the unauthorised or inappropriate management of waste. It is important that manage you waste responsibly while it is in your possession and you do not pass your waste onto someone who may be involved in illegal waste activities.

What do I need to do to prevent Harm or Pollution?

A waste manager remains responsible according to what he 'knows or should have foreseen'. A waste manager should act on any knowledge to stop the illegal handling of waste and contact SEPA.

For example,

- you should be suspicious of people or businesses offering unrealistically cheap waste services. This may be a sign that the waste is not being legally managed.
- you would not be expected to follow the carrier, but you may wish to determine that waste has subsequently arrived at its intended destination especially if the waste has particular problematic or hazardous properties. You can do this by requesting weighbridge or tip tickets or email confirmation.
- you should be able to see whether the waste is loaded securely for transport when it leaves your premises. If it later falls off the vehicle you could be liable.
- you may notice a carrier's lorries returning empty for further loads in a shorter time than they could possibly have taken to reach and return from the proposed waste management site.
- burning of waste is, under most circumstances, an illegal activity.
- you may notice a carrier apparently engaged in the fly-tipping of someone else's waste. These would be grounds for suspecting the illegal handling of your waste by the carrier.
- if you refuse a load of waste from a carrier arriving at your site you should have in place arrangements to prevent this waste being fly-tipped in another location.

You should act on any knowledge to stop the illegal handling of waste. Whenever you become aware that your waste is being illegally dealt with you should inform [SEPA](#) through their 24 hour pollution hotline – 0800 80 70 60. You can also use Crimestoppers' [anonymous online report form](#).

7 Your Obligations in the Event of Waste Import or Export

This section offers guidance to any person who intends to import waste or holds waste that is going to be exported. This could include producers, carriers, managers, brokers and dealers who must also comply with the other relevant parts of this guidance. The Duty of Care applies to the storage, transfer and carriage of that waste before it is exported and / or after it is imported.

What are my responsibilities?

If you are involved in the import or export of waste to or from the United Kingdom you need to be aware that shipments of waste are subject to a range of regulatory controls. Export of waste is covered by the [EU Waste Shipments Regulation \(1013/2006\)](#) and the [UK Transfrontier Shipment of Waste Regulations 2007 \(as amended\)](#). You, therefore, need to ensure that the person to whom you are transferring waste will not export it in breach of the rules set out in this legislation.

Hazardous waste and waste destined for recovery in a developing country is generally subject to notification procedures. This requires the prior written consent of all relevant authorities of dispatch, transit and destination.

Green list (non-hazardous) waste can be shipped for recovery within Organisation for Economic Co-operation and Development (OECD) countries under a lower level of control and accompanied by certain information. The shipment of non-hazardous waste to non-OECD countries (i.e. developing countries) depends on which classification of waste the importing country accepts and which procedures it wants to apply.

What are my responsibilities?

In the event of waste import or export you have a duty to:

- Apply the waste hierarchy as a priority order in your role as a freight forwarder, transporter (including shipping line) or broker.
- Comply with the Duty of Care applicable to you in your role as a freight forwarder, transporter (including shipping line) or broker.
- Ensure that the waste description is accurate and contains all the information necessary for safe handling, transport, treatment or recovery by subsequent holders.
- Ensure that the transfer of waste is covered by a waste transfer note (or in the case of imports and exports, [Annex VII form](#) or [notification form](#) and movement document) including a full description of the waste and to retain the transfer note and waste details for two years (three years for import / export documentation).
- Ensure that the site of destination holds the appropriate environmental permit or exemption to accept the waste. This responsibility extends to destinations in other countries.
- Ensure that the person to whom you are transferring waste will not export it in breach of the rules set out in the EC Waste Shipment Regulations (1013/2006) and the UK Transfrontier Shipments of Waste (TFS) Regulations 2007.

Where you use a broker or dealer, you both have responsibilities under the Duty of Care. Using a waste broker or dealer does not diminish or remove any of these responsibilities from you if you have been a holder of waste which is being exported.

If you are a waste manager and you are sending waste to a facility that may be involved in the export of waste, you should ensure that you have sufficient information to satisfy yourself that any waste that is collected by you or on your behalf is exported legally. Should waste collected by you be shipped illegally, you may be liable for the costs of return and subject to enforcement action.

Step 1 - Apply the waste hierarchy

You must apply the waste hierarchy as a priority order to the management of your waste and promote high quality recycling. The waste hierarchy guidance provides details of the preferred outcomes for a range of common recyclable materials.

The recycling and recovery of material is an international business and material may be imported or exported from the UK for recovery in compliance with the [Transfrontier Shipments of Waste Regulations](#).

It is illegal to import or export waste for disposal, except in a few very limited circumstances.

It is also illegal to export hazardous waste to countries not members of the Organisation for Economic Co-operation and Development (OECD).

Step 2 – Prevent the escape of waste

You must not allow any waste materials to escape from your control during transport.

Vehicles and containers must be suitable for holding the waste so that it does not escape during transport and management e.g. containers should not be overloaded.

When importing or exporting waste you need to make sure that:

- waste is being stored in a **secure** location and in suitable containers for both transport and subsequent management. If the waste is not kept securely, there is the possibility that unauthorised people may have accessed the waste.
- recyclable waste is stored **separately** from mixed waste and from other types of recyclable waste to the extent that the quality of the material is not undermined.
- containers are clearly **labelled** with their contents so that you know what the wastes are and can confirm that you are collecting the correct waste. Container labels should clearly **describe** the properties of the waste so that you and the next holder know what measures are required to store and transport the waste safely.
- waste is being stored **safely**. Leakage and spillages must be prevented and/or controlled. If you consider that the containers are unsafe you have a duty not to transport them in that state. You are required to re-pack the waste, or arrange for its re-packaging, until you are satisfied that the waste can be transported safely.
- take measures to **prevent pollution**. You must prevent liquid wastes and pollutants from escaping into drains, watercourses or surrounding ground. Store liquid wastes on impermeable surfaces within a secondary containment system. Ideally this should be a bund which is large enough to hold the leaked contents of the storage containers. If you store liquids, refer to SEPA's guide to the [storage and handling of drums & IBCs](#)

Step 3 – Describe the waste

You must ensure that the waste being transferred is covered by a completed transfer note (or in the case of imports and exports, [Annex VII form](#) or [notification form](#) and movement document) which should include an adequate

written description that will enable anyone receiving it to manage it in accordance with their own Duty of Care. If something goes wrong and the waste is not described properly or you have not told the next holder the properties of the waste, then you may be held responsible together with the waste producer.

If exporting waste:

You must ensure that any waste you are exporting is delivered with a WTN including an adequate written description that will enable you to store or manage it in accordance with the Duty of Care. The WTN is your evidence that you received the waste. Guidance on the information that a transfer note must contain is provided in Chapter 10

You must keep a copy of the transfer note signed by yourself and the person you received the waste from for **two** years. This can be an electronic copy, including electronic signatures, provided an enforcement officer can view it. You also need to keep any additional information with this note such as any analysis results.

Relevant green list or notification control descriptions must be completed depending on the type of waste being exported and the particular country where the recovery is to take place, in compliance with the [Transfrontier Shipment of Waste Regulations](#). These documents should be retained for **three** years.

If importing waste:

You must check that the relevant green list or notification control descriptions are completed depending on the type of waste being imported in compliance with the [Transfrontier Shipment of Waste Regulations](#). These documents should be retained for **three** years.

If the waste is to be transferred onto a UK waste management or reprocessing facility it requires a WTN (as outlined above).

Step 4 – Transfer to an authorised person

When exporting waste:

You need to ensure that:

- the country of destination has given approval to accept it, and
- the necessary documentation and authorisations are in place.

You should consider whether any further export controls or notification requirements apply and establish this from the exporter. The facility identified for processing the waste in the country of receipt must be deemed suitable.

When importing waste you should:

Ensure that any person or business you supply with waste is authorised to accept it. All sites managing waste for treatment and/or disposal are required to hold an appropriate permit, licence or exemption.

As a minimum you should ask for:

- the reference number of the site's Licence or Permit so that you can check this against SEPA's [public registers](#) to confirm that it is genuine and valid and evidence that it allows for deposit of the waste you are carrying.
- a description of the waste on the Annex VII or notification form which is adequate for you to be reasonably certain that the waste can be accepted at the next site.
- confirmation from SEPA if you are at all unsure whether the site can accept the waste.

Step 5 – Prevent waste causing harm or pollution

Harm to human health or pollution of the environment may be caused by the unauthorised or inappropriate management of waste.

Import and export of waste can be a complex process as countries of destination can change their approvals or specific requirements quite regularly. You should be familiar with all of the requirements and understand that certain countries do not accept any imports of waste.

For guidance refer to the [Transfrontier Shipment of Waste Regulations](#) pages on SEPA's website:

8 Your Obligations as a Broker or a Dealer

What are my responsibilities?

Where you make arrangements for the recovery or disposal of waste on behalf of another party you are deemed to be acting as a broker and must be registered with SEPA or the Environment Agency. You are therefore also classified as having control of that waste, even though you may not physically hold the waste of which you are in control.

Where you buy or sell waste you are deemed to be acting as a dealer. You are also classified as controlling that waste and must be registered with SEPA or the Environment Agency. Dealers act in a similar way to brokers and therefore have similar obligations.

Waste brokers and dealers may also import or export waste. In any of these capacities, by arranging for the transfer of waste, you jointly hold responsibility for its proper transfer and management with the holders directly involved (producer, carrier, exporter or waste manager). You should therefore also be familiar with the responsibilities of the other holders described in this guidance. You should also ensure that you are compliant with the duty of care legislation for any country through which you are arranging the transport of waste.

Local authorities often act in the capacity of a waste broker. Where departments such as the waste disposal authority are acting in the capacity of broker they have the same responsibilities under the Duty of Care as any other party.

In summary, as a waste broker or dealer you jointly hold responsibilities with the waste producer.

As a waste broker or dealer, you must:

- Apply the waste hierarchy as a priority order to the management of your waste and promote high quality recycling.
- Ensure that any waste in your control is handled and stored safely, without causing harm to the environment and in accordance with the law.
- Know the nature of the waste you are in control of, for example, if it is process waste to know its constituents and properties.
- Ensure care of the waste while it is stored, so it does not escape.
- Ensure that the waste description is accurate and contains all the information necessary for safe handling, transport, treatment, recovery or disposal (especially by landfill) by subsequent holders.
- Ensure that you have a valid registration with the Scottish Environment Protection Agency.
- Ensure the waste is transferred to someone who is authorised to receive it, for example, a registered waste carrier, or waste manager.

- Ensure transfers of waste are covered by a WTN including a full description of the waste and to retain the transfer note and waste details for two years.
- Ensure that the site of destination holds the appropriate environmental permit or exemption to accept the waste. This responsibility extends to destinations in other countries.

As a broker you should retain, for two years, a copy of the transfer notes used in any transfers of waste that you have arranged as evidence of your compliance with the Duty of Care. For an import or export, you should retain the documentation for three years.

Step 1 – Apply the waste hierarchy

You must take all reasonable steps to apply the waste hierarchy as a priority order to the management of your waste and promote 'high quality' recycling. The Waste Hierarchy Guidance describes the order for a range of common waste streams and further advice on how to apply it.

The duty to apply the waste hierarchy applies to all waste streams and therefore any material capable of being reused, recycled or otherwise recovered (such as dry recyclables, textiles, WEEE, wood, tyres, etc) should be segregated and the preferred management routes identified and applied in priority order.

For information on the requirement separately collect dry recyclables and food waste please see Sections 4 and 5.

Step 2 - Prevent the Escape of Waste

Although as a broker you may not physically hold the waste you are regarded by the law as having control of that waste. However you should still ensure that the physical holder of the waste under your direction manages it in order to prevent any waste materials escaping from their control or the control of others, for example during storage or transport.

What must I do when storing Waste?

All waste has the potential to pollute the environment if you do not handle or store it properly. When waste is being stored at your premises you must make sure that;

- waste is stored in **safely and securely** in suitable containers. If you store waste in skips or similar containers, ensure that they are covered or netted so the waste does not blow away. Store waste under cover if rain will prevent it from being reused or recycled, or cause contaminated run-off. Keep waste containers in good condition.

- containers are clearly labelled so that wastes can be properly **segregated** and people know what can and cannot be placed in them. If you reuse containers, make sure that labels are accurate and up to date so that the next holder of the waste can readily identify what the containers hold.
- the waste is stored in a **secure** location with access limited to responsible persons you have identified. If waste is not kept securely, loose materials or specific objects may be blown or washed away or even stolen. Less secure storage may also attract others to scavenge or mix their waste with your own. If this occurs then the waste carrier or contractor may refuse to accept the waste or charge you more.
- liquid wastes and pollutants are prevented from escaping into drains, watercourses or surrounding ground. Store liquid wastes on impermeable surfaces within a secondary containment system. Ideally this should be a bund which is large enough to hold the leaked contents of the storage containers. If you store liquids, refer to SEPA's guide to the [storage and handling of drums & IBCs](#)

Step 3 - Describe Your Waste

You must ensure that the waste being transferred is covered by a completed WTN (or in the case of imports and exports, [Annex VII form](#) or [notification form](#) and movement document) which should include an adequate written description that will enable anyone receiving it to manage it in accordance with his or her own Duty of Care. If something goes wrong and the waste is not described properly or you have not told the next Holder the properties of the waste, then you may be held responsible together with the waste producer.

What information must I provide?

You should ensure that a WTN (or in the case of imports and exports, Annex VII form or notification form and movement document) and waste description is produced covering yourself and the party(ies) you are brokering between. The WTN is your evidence that the waste was passed on and that it was adequately described. Guidance on the information that a transfer note must contain is provided in Chapter 10.

You must keep a copy of the WTN signed by yourself and the person you transfer waste to for **two** years, or three years in the case of a shipment to or from the UK. This can be an electronic copy for UK movements, including electronic signatures, provided an enforcement officer can view it. You also need to keep any additional information with this note such as any analysis results.

A '**season ticket**' system can be used for waste of the same description which is transferred between the same transferor and transferee within Great

Britain for a period up to 12 months. This avoids the need for a separate WTN for each waste load transferred although you should keep a log of individual loads collected from you under season ticket arrangements. "Season tickets" can be used, for example, for the weekly collection of waste from shops or repeat journeys of excavated materials from a construction project.

If the waste is Special Waste you have the same obligations under the Duty of Care. A [consignment note](#), rather than a transfer note, is required to comply with the [Special Waste \(Scotland\) Regulations 1996 \(as amended\)](#).

What is an adequate description?

An adequate description will depend upon the nature of the waste and any treatment or sorting processes that it has already been through. The description must include any special problems associated with the waste in order for subsequent holders to handle the waste properly. For example;

- Can the waste be accepted at the intended waste management site?
- Can it be disposed of safely in a landfill site with other waste?
- Does the waste need a special container to prevent its escape or to protect it from the elements, e.g. loose waste?
- Does the waste require particular treatment or separate handling, e.g. dry recyclables, food waste, contaminated soil, batteries or WEEE?
- Is it likely to change its physical state during storage or transport, e.g. might it give off gas or become liquid, in which case sufficient headspace will need to be provided in containers?
- Are there any other issues with the waste which others should be aware of (smell, liquids leaching from the waste, etc)?

Waste described as "general rubbish" or "muck" does not constitute an adequate description.

Step 4 - Waste must only be transferred to an Authorised Person

Make sure that any person or business you are transferring waste to within the UK or who is organising waste transfers for you are registered to do so. If they are not registered you should confirm that they do not need to be before they take the waste. For imports and exports you should check the relevant national requirements for the registration of carriers. This is crucial in the effort to tackle waste crime.

Authorised persons are [Registered Waste Carriers](#), such as waste management companies, or registered Professional Carriers and Transporters of waste such as Local Authorities and charities/voluntary organisations.

If you normally and regularly carry your own waste to a recycling or treatment facility, you will need to register as a [Professional Carrier and Transporter of Waste](#).

Your Duty of Care as a producer of waste extends along the entire chain of management of the waste. The Duty is not discharged on handing over the waste to the next holder. You should take reasonable steps to make sure that the waste will be managed correctly and legally.

What must I do to check authorised persons details?

The detail of the checking required will depend on the quantity or nature of the waste you produce. As a minimum you must ask for:

- A copy of the carrier's registration certificate and check this against SEPA's online [public registers](#) to confirm that it is genuine and valid.
- Confirmation of the broker/dealers registration and check this against the SEPA's public register. If you choose to engage a waste broker to identify suitable carriers and/or waste management options for your waste then you will share equal responsibility for how the waste is stored, transported and ultimately managed. You must ensure any broker you use has a valid registration and check this against the SEPA's online [public registers](#).
- The reference number of the site's Licence or Permit so that you can, if necessary, check this with [SEPA's local teams](#) to confirm that it is genuine and valid and evidence that it allows for deposit of your type of waste.

It is advisable to re-check carrier registration from time to time as many carrier registrations are renewable every three years and in some circumstances SEPA may have cancelled or revoked the registration.

You should also know where the carrier takes your waste for onward management. This is particularly relevant if you are arranging the management of:

- large amounts of waste,
- waste which can be difficult to manage e.g. hazardous waste
- waste which is commonly flytipped (eg tyres).

You should be aware of the destination of the waste and check the site's Licence or Permit reference number so that you can, if necessary, check with [SEPA's local teams](#) that the site is genuine and is allowed to accept the waste.

Step 5 - Prevent Your Waste Causing Harm

What is meant by harm?

Harm or pollution can be result from the unauthorised or inappropriate deposit, treatment, recovery, disposal or export of waste.

What can I do to check that my waste is correctly managed?

If you are acting on behalf of an original producer, it is not possible to draw a line at the gate of that person's premises and say that your and their responsibility for the waste ends there. You will have directed waste toward other holders and share with the producer all responsibilities required by the Duty of Care.

A broker remains responsible according to what he 'knows or should have foreseen'. You should take account of anything you see or learn about the way in which any party is subsequently handling it. For example you:

- should be suspicious of people or businesses offering unrealistically cheap waste services. This may be a sign that the waste is not being legally managed.
- need to ensure that waste is packaged correctly and that the vehicle is suitable for transport, as if it subsequently falls off the vehicle you could be deemed liable.
- should determine that waste has subsequently arrived at its intended destination especially if the waste has particular problematic properties or is being exported. You may also wish to check its final destination if it is to be recovered elsewhere. You could do this by requesting weighbridge or tip tickets or shipping documents.
- may notice a carrier apparently engaged in the unlawful dumping of someone else's waste. These would be grounds for suspecting illegal handling of your waste by the carrier. Whenever you become aware that your waste is being illegally dealt with you should tell SEPA.

A producer should act on any knowledge to stop the illegal handling of waste. Whenever you become aware that your waste is being illegally dealt with you should inform [SEPA](#) through their 24 hour pollution hotline – 0800 80 70 60. You can also use Crimestoppers' [anonymous online report form](#).

9 Your Obligations as a Householder

This section offers guidance to any occupier of a domestic property with respect to household waste produced on that property.

What are my responsibilities?

You have a duty to take all reasonable measures to comply with the Duty of Care whilst the waste is in your possession and to enable other holders in the chain to comply with the Duty. Breach of the Duty of Care may result in enforcement action being taken against you.

As a householder, you must:

- Ensure that any waste that you produce is handled and stored safely, without causing harm to the environment and in accordance with the law.
- Ensure that any household waste produced on your property is only transferred to a carrier that is appropriately registered with SEPA.

What does this mean?

It is your responsibility to ensure that any waste produced on your property is only taken by someone who is authorised to carry that waste. In order to do this you should ask that person/company if they are a registered waste carrier. You may wish to confirm the registration is valid and this can be done by checking the SEPA public register. Only after you have confirmed such proof should you give your waste to them. It is advisable to ask where your waste is going.

You should be suspicious of people or businesses offering unrealistically cheap waste services. This may be a sign that the waste is not being legally managed.

When your waste is collected by your local authority or their contractor they will already be registered as a waste carrier, you do not therefore need to check their details. You are also not required to exchange paperwork with them. The same is true for a charity uplifting textiles from a doorstep collection.

You still have responsibility to store your waste safely, without causing harm or pollution to the environment and in accordance with the law while it is awaiting collection.

If you give your waste to a friend or neighbour to dispose of then you need to ensure that they will be taking the waste to a site with an environmental permit, for example the local civic amenity site. A civic amenity site is provided

by the local authority only for householders to deposit their own household waste. Each local authority operates such sites differently.

However;

- If you take a large van full of waste, the operator of the site would have the right to ask you to prove that the waste is from your own household so take some evidence with you.
- If you visit the site regularly the site operator may suspect that you are producing waste as part of a business and as a result may request payment, or refuse entry until they see some proof of carrier registration.

If you contract a builder or tradesperson such as a landscape gardener, plumber, kitchen contractor, glazier, carpet fitter etc to undertake work that results in the production of waste then they will normally be considered to be producing that waste.

You should check what their plans are for the recycling or disposal of waste and that the cost is included in their quote. It is their legal responsibility to arrange for appropriate disposal of all waste that is generated as a result of their business activity.

However, as it has been produced on your property you have a responsibility to make reasonable checks to ensure that the waste will be carried by appropriately registered people.

If you have not made reasonable checks to ensure that waste produced on your property is carried by appropriately registered people and that waste is subsequently found to have been fly-tipped you may share liability with the fly-tipper and be subject to enforcement action.

10 Transfer Notes

What information must be present on the transfer note?

The transfer note is your evidence of proper transfer of waste including the information that was passed on. You will have to produce it when asked by an enforcement officer. An example note is provided below. Transfer notes must contain the information required by [The Environmental Protection \(Duty of Care\) Regulations 1991 \(as amended\)](#). An example note with this information is provided below.

What is an adequate waste description?

An adequate description will depend upon the nature of the waste. It should, however, include mention of any special problems associated with the waste. In looking for 'special problems' associated with the waste it may help to ask yourself and record answers to such questions as:-

- Does the waste require particular treatment, e.g. clinical waste which requires sterilisation, batteries or WEEE?
- Does the waste need a special container to prevent its escape or to protect it from the elements, e.g. loose waste?
- Do you need to advise the producer on what type of container suits the waste and what material the container can be made of?
- Do you need to advise on labelling and other requirements for transport?
- Can it safely be mixed with any other waste or are there wastes with which it should not be mixed, for example at a waste transfer station?
- Can it safely be crushed and/ or transferred from one vehicle to another?
- Can it be disposed of safely in a landfill site with other waste?
- Is it likely to change its physical state during storage or transport e.g. might it give off gas or become liquid?

Section A – Description of Waste

A1 – Describe the waste being transferred

Source Segregated Recyclables Mixed Waste

Other

Description

European Waste Catalogue Code

A2 – How is the waste contained

Loose Sacks Skip Drum

A3 – How much waste?

A4 – Standard Industrial Classification

Section B – Current holder of the waste - *Transferor*

B1 – Full name

Address

Postcode

B2 – Are you the;

Producer of the waste Importer of the waste

Local Authority

The holder of a waste management authorisation

Licence No.

A registered waste carrier

Registration No.

Section C – Person receiving the waste - *Transferee*

C1 – Full name

Address

Postcode

C2 – Are you the;

Producer of the waste Importer of the waste

Local Authority

The holder of a waste management authorisation

Licence No.

A registered waste carrier

Registration No.

Section D – The transfer

D1 – Address of transfer

Postcode

D2 – Broker who arranged this transfer

Postcode

Transferor's signature

Transferee's signature

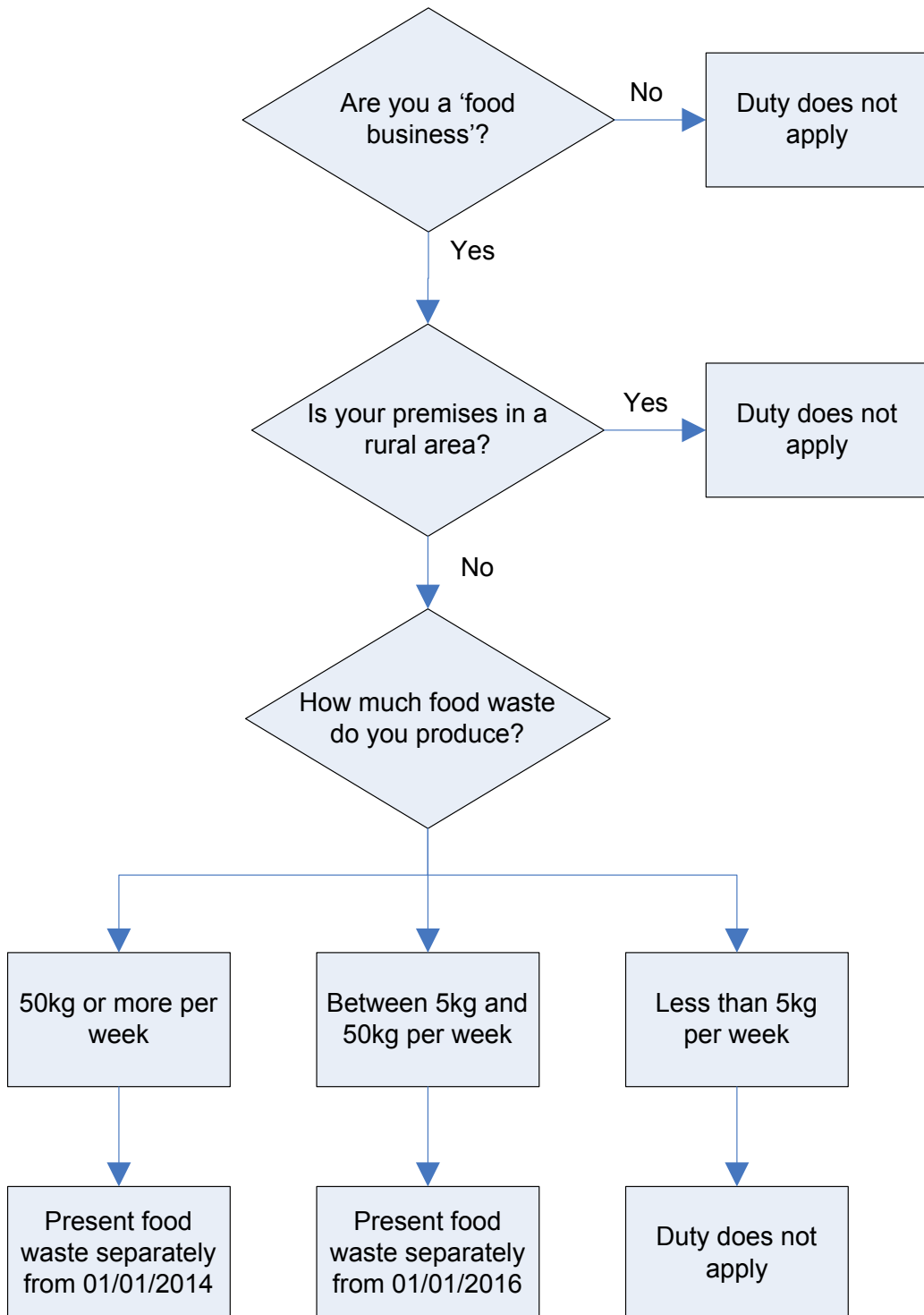
Name

Representing

Name

Representing

Appendix 1 – Food Waste Flowchart



Appendix 2 – Further Reading

- **Waste (Scotland) Regulations 2012**
<http://www.legislation.gov.uk/sdsi/2012/9780111016657/contents>
- **Scottish Government – Guide to the Waste Hierarchy**
- **Duty of Care - Business Gateway**
<http://www.business.scotland.gov.uk/bdotg/action/detail?itemId=1081282456&site=202&type=RESOURCES>
- **Zero Waste Scotland - Business support programme**
<http://www.zerowastescotland.org.uk/category/what-we-offer/business-support>
- **Zero Waste Scotland – Business Recycling Directory**
<http://brrd.zerowastescotland.org.uk/>
- **SEPA - Registered Carriers and Brokers**
http://www.sepa.org.uk/waste/waste_regulation/waste_carriers_and_brokers/who_is_registered.aspx
- **SEPA - Guide to consigning special waste**
http://www.sepa.org.uk/waste/waste_regulation/idoc.ashx?docid=6cbdf568-e00e-41e4-b195-e46c1c258969&version=-1
- **SEPA - Storage and handling of drums & IBCs**
http://www.sepa.org.uk/about_us/publications/guidance/idoc.ashx?docid=9501383e-dff2-4c01-a26e-58385baa8b49&version=-1
- **SEPA – Waste Management Licence Exemptions**
http://www.sepa.org.uk/waste/waste_regulation/application_forms/exempt_activities.aspx
- **SEPA – Paragraph 12 – Small Scale Composting**
http://www.sepa.org.uk/waste/waste_regulation/application_forms/exempt_activities/paragraph_12.aspx
- **Fly-tipping – Dumb Dumpers**
<http://www.dumbdumpers.org/>
- **Crimestoppers – Anonymous online report form**
<https://secure.crimestoppers-uk.org/ams.form.anonymous.asp>

- **What do recycling symbols mean?**
<http://www.recyclingsymbols.org.uk/>
- **WRAP - Commercial collection guidance**
<http://www.wrap.org.uk/content/local-authority-business-waste-recycling-guidance-documents>
- **Zero Waste Scotland – Recycling industry support programme**
<http://www.zerowastescotland.org.uk/content/support-funding-guidance-0>
- **SEPA - An introduction to moving waste between countries**
http://www.sepa.org.uk/waste/waste_regulation/transfrontier_shipment/idoc.a_shx?docid=11106773-0440-4cc1-a70f-c8820528d31e&version=-1
- **SEPA - Determining the controls on waste exports**
http://www.sepa.org.uk/waste/waste_regulation/transfrontier_shipment/idoc.a_shx?docid=d626e5f0-ec53-42fc-bacc-f6d3a94b5e05&version=-1
- **SEPA - Moving notified waste between countries**
http://www.sepa.org.uk/waste/waste_regulation/transfrontier_shipment/idoc.a_shx?docid=7a46466a-9c19-41cf-8e9e-939d3d6333b7&version=-1
- **SEPA - Determining the controls on waste imports**
http://www.sepa.org.uk/waste/waste_regulation/transfrontier_shipment/idoc.a_shx?docid=492fc227-924c-46b4-9500-e63f3c2b0eaf&version=-1



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