

BONFIRES and the Law

**A Guide to Good Practice for
Commercial Businesses**

Every year in Public Protection Services we receive large numbers of complaints about nuisance caused by bonfires. **Bonfires connected with trade or commercial activities are illegal, the law is much stricter and the penalties for causing a nuisance are high.**

Duty of Care

The Environmental Protection Act 1990, Sections 33 and 34 places a Duty of Care on waste producers. This requires waste producers to ensure that all waste produced, stored or transferred does not adversely impact upon the environment or human health. The duty of care makes it illegal to burn commercial waste on site, or to dispose of waste without a waste transfer note or contract. Commercial waste includes waste from a gardening/landscaping business or builder's waste. The only exemption to the need for a transfer note is domestic household waste which is collected by the council or taken directly to a licensed waste site. We have a separate leaflet on the duty of care which has been produced by the government.

Nuisance

If the smoke, fly ash or gritty particles associated with a commercial bonfire cause a nuisance to other people then this is a statutory nuisance under the Environmental Protection Act 1990. The Council can serve a notice to abate the nuisance or prevent it from re-occurring. Non-compliance with a statutory notice can lead to the Magistrates' Court imposing a fine of up to £20,000. If we cannot trace a commercial operator, such as, a builder to serve a notice then we will serve it on the person employing them instead, requiring them to control their contractor.

Dark Smoke

If the bonfire concerned is producing 'dark smoke' and it is burning trade or commercial waste, or it is on commercial land, then the person or people responsible are liable to fines of up to £20,000 under the Clean Air Act 1993. The Council does **not** need to serve a notice first, and it does not have to be thick black smoke. This law will also apply if we think that items to be burned are likely to give rise to dark smoke. The type of items which we are concerned about are plastics, rubber or densely packed wood, especially if the wood is painted or treated.

Highways

If smoke drifts across the highway where it causes (or might cause) an accident, this is an offence under the Highways Acts (as amended). There is a maximum

penalty of £5,000 for this offence, and you could also face possible private action for damages by people who suffer loss or harm due to your actions e.g. someone who is hurt in a car accident due to the smoke that you have produced.

Cable Burning

The burning of cable to recover the metal core is a specific offence under the Clean Air Act 1993. Cable burning can only be carried out on premises authorised for those purposes. If it is carried out on unauthorised premises there is a maximum penalty of £5,000 under the Clean Air Act 1993 and higher penalties under the Environmental Protection Act 1990.

Proper Disposal

Instead of burning materials you must arrange for them to be taken away to a proper waste disposal site. **DO NOT BE TEMPTED TO FLY-TIP.** This is a serious offence under the Environmental Protection Act 1990 and carries a maximum penalty of £50,000 and up to 12 months imprisonment or both. The maximum sentence is even higher for dumping special waste which may be harmful to health.

You can either take the waste yourself or arrange a waste carrier to take it for you. If you use someone else then you have a duty to ensure that they are an authorised carrier. They will arrange for you to complete and sign a transfer note. This is so that no-one can arrange to take waste from other people and then dump it illegally. If this happened then the contractor and the person employing them would be held partly responsible under the law unless they had properly checked the waste carrier's credentials and signed a transfer note.

There is a charge for the disposal of waste arising as a result of commercial activities.

For further information on any of the above then please contact the Environment Agency on

Telephone: 08708 506 506

Website: <http://www.environment-agency.gov.uk>

If you would like a copy of this document in large, clear print, audio, braille or in another language, please telephone: -

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