

Burning commercial and trade waste (Commercial Bonfires)

Every year the Environmental Health Department receive a large number of complaints about nuisance caused by bonfires. Bonfires connected with trade or commercial activities are illegal and the law is much stricter and the penalties for causing a nuisance are high. Commercial waste includes waste from a gardening, landscaping, builder's waste etc.

Duty of Care

Sections 33 and 34 of the Environmental Protection Act 1990 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.

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 (stop it) or prevent it happening again. If the person responsible does not comply with this notice then they can be fined up to **£20,000**. If we can't 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 - The Clean Air Act 1993

If a bonfire is producing 'dark smoke' by the burning of trade or commercial waste on commercial land then the persons responsible maybe liable to fines of up to **£20,000** after a successful prosecution in court. 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 kind 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 your contractors or 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 **£20,000** and up to 6 months imprisonment in the Magistrates Court, or unlimited fines and up to 2 years imprisonment at Crown Court. The maximum sentence is even higher (5 years) 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.

All businesses in the UK have a duty under the Environmental Protection Act to ensure that their waste is stored, collected, transported and disposed of or recycled properly and in accordance with the law. To help local businesses comply with these laws, Welwyn Hatfield Borough Council's Client Services Department provides a competitive trade refuse collection service to businesses.

For further information or advice please call Public Health and Protection on 01707 357242 or email contact-whc@welhat.gov.uk

To find out more about businesses' responsibilities under the Environmental Protection Act and to check if your service provider is registered, visit the Environment Agency website.

If you see trade waste being burnt that fits the criteria above this should be referred to the Environment Agency.

**WELWYN
HATFIELD**
BOROUGH COUNCIL

