

The Chartered Institution of Wastes Management (CIWM) is the professional body which represents around 6,300 waste management professionals, predominantly in the UK but also overseas. The CIWM sets the professional standards for individuals working in the waste management industry and has various grades of membership determined by education, qualification and experience.

## **Consultation on the revised Waste Duty of Care Code of Practice**

*Q1. Does the revised Code of Practice clearly set out the scope of the duty of care requirements under Section 34 of the EPA? (Yes/No)*

Yes, the revised code of practice makes clear that compliance with the Duty of Care is a legal requirement and the Code of Practice is admissible in court as evidence which is a point that has been missed by some practitioners.

*Q2. Does the revised Code of Practice help you to understand how long the duty of care applies for? (Yes/No)*

Yes. The guidance makes it clear that the producer still has responsibility for their waste until it is disposed of or recovered and that they need to take 'reasonable steps' to ensure that their waste is managed legally, beyond the original transfer.

*Q3. Does the revised Code of Practice clearly explain what the legislative requirements of the duty of care are? (Yes/No)*

Yes

*Q4. Do you have any comments to support your answers to questions 1-3?*

Yes.

The document on page 8 refers to the list of wastes regulations 2005 with a hyperlink. These regulations have been repealed through the Hazardous Waste Regulations 2015 and it would be better to use the same link as used earlier in the document on page 6 to the waste classification technical guidance or the EU commission decision 18th December 2014 which is now the correct version of the list of wastes.

*Q5. Does the revised Code of Practice help you to understand what actions you need to take to meet your duty of care? (Yes/No)*

Yes and No.

*Q6. Do you have any comments to support your answer to question 5?*

CIWM suggests the second bullet point under 3 Waste duty of care requirements should relate to section 3.2 and not "0".



On page 4 under 2.2, in relation to duty of care and householders the guidance mentions waste produced on the property. CIWM understands this to be the day to day arising of domestic waste, from the property. Clarification of who is the producer of the waste being transferred has been one of the most frequently raised queries under the Duty of Care in situations where a third party undertakes household/appliance repair and maintenance, etc. Examples include carpet fitters, appliance repair or garden services. This aspect of Duty of Care responsibilities should be clarified through this guidance.

Mention should be made in Section 3.5 of the tools on edoc. These help with waste classification (EWC codes) and generation of accurate SIC codes, which are crucial to both compliance and generation of waste data for use as a business/strategic tool. These tools are free and edoc registration is not a requirement to be able to use them. This guidance should also be a general encouragement to businesses of all sizes to use edoc and CIWM would like to see this point emphasised much better.

Generation of accurate waste descriptions, e.g. for loads of mixed dry recyclables remains problematic. Use of up to four EWC codes to 'describe' mixed recyclables provides no more information than use of a single 'catch-all' code has done in the past. If Governments intend that waste descriptions and classifications should provide more detailed composition information in the future, then much more detailed guidance – and promotion/enforcement of the classification requirement – will be needed.

More accurate waste description coupled with enhanced regulator enforcement powers will be a positive step in tackling all forms of waste crime.

*Q7. Is the signposting of other relevant legislative requirements in section 4 useful? (Yes/No)*

Yes and No.

*Q8. Do you have any comments to support your answer to question 7?*

As written the guidance may leave non landfill operators users of the guide understanding they, too, need to understand and comply with landfill tax requirements.

Hyperlinks to further guidance and information are valuable and useful to on-line users. Many users will still use the guidance in hard copy and there is inadequate information in the hyperlink itself to help those users to access the referenced document themselves. A more detailed listing of these referenced documents will be needed and will need to be kept up-to-date.



CIWM notes the useful addition - through the 2012/13 review exercise - that valuable best practice guidance has been included into Duty of Care guidance in Scotland and Northern Ireland. This is not being made available in any form to users of this proposed England and Wales guidance document. CIWM recommends that this best practice guidance should be available to users and referenced in the guidance document itself. The 'Right Waste, Right Place' project will be using/presenting that best practice guidance and at the very least this guidance document should point to it.

*Q9 How do you plan to use the revised Code of Practice - will you print it as a hard copy or are you more likely to access it online?*

CIWM will use the guidance document online but also keep a hard copy for quick reference, even in the current digital age it is important to recognise that some users may not have access to view this online.

*Q10. Do you have any suggestions regarding how to ensure the format of the revised Code of Practice best meets your needs?*

The guidance document should present a transfer note template. This has been useful to many businesses in the past. The edoc system uses a standard waste transfer note template and again, CIWM feels that guidance document should be used to support and encourage edoc use, even if only to provide ready access to additional forms of Duty of Care support.

On page 5 under 3.1 the first paragraph has "...treat, keep and dispose...", following the bullet points it says "...depositing, treating or disposing...". Some guide users may be left confused regarding these terms and some additional explanation may be needed in this section.

CIWM is disappointed that the guidance does not help users identify particular situations of who is responsible for generating waste. This is in relation to service providers who come and repair equipment. In the act of doing so they create their waste and should take this with them when they leave and not try to leave it with the customer. This covers householders and businesses - washing machines for householders and photocopiers for businesses for example. See comment under question 6 above.

Under 3.1 there is the definition of fly-tipping which includes the scale from "...a single bin bag...". Care needs to be taken to ensure that this definition matches that provided for local authorities in recording fly-tipping through the WasteDataFlow system.

On page 7 under 3.4, the second paragraph CIWM suggests changing the wording to. "The person or business to whom you transfer your waste or arranges...."



On page 9 CIWM suggests changing the wording for the paragraph on season ticket. CIWM proposes "A season ticket can be used where, for example, a waste producer transfers waste of the same non-hazardous type to the same carrier."

Section 4 assumes you know that you already have hazardous waste or some idea. Work in the waste awareness project funded by the Environment Agency has shown that many businesses do not realise they have hazardous waste, e.g. fluorescent tubes. CIWM believes the guidance document would be more useful if it included a link to a simple hazardous waste awareness document which gives common examples of hazardous wastes from businesses.

CIWM also suggests adding in "The consignment note system for hazardous waste satisfies all the requirements of the Duty of Care and you do not need to fill in a separate waste transfer note". This could be at the end of the second sub bullet point or a separate line at the end of the hazardous waste text.

Section 4 Materials facilities CIWM suggests changing the words in brackets to "... (or wastes similar to household waste) ... of or including mixed glass, ..."

