

## **Environmental Health**

### **Commercial Bonfires**

**Bonfires connected with commercial, trade, or industrial activities are illegal**, the law in relation to the offences are much stricter and the penalties are high.

#### **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 have an impact upon the environment or human health

The duty of care makes it illegal to burn commercial, trade or industrial waste, or to dispose of waste without a waste transfer note or contract. Commercial waste includes waste from a gardening/landscaping business, or builders waste including waste produced from carrying out a property renovation.

#### **Dark Smoke**

Under the Clean Air Act 1993, it is an offence to produce and release dark smoke from fires at Industrial or commercial premises, and the person or people responsible for the offence are liable to fines of up to £20,000. We do not need to serve notice first, and you could be held responsible for the offence of producing or releasing dark smoke whether you intended to or not. This law will apply if we find evidence that you have previously burnt materials that are likely to have produced dark smoke. This could include for example, if we find tyre rims, or chair frames on the remains of a bonfire, and in addition even if we find items that are ready to be burned, are likely to give rise to dark smoke you can still be prosecuted. It does not need to be thick black smoke.

#### **Nuisance – such as smoke, fly-ash or gritty particles**

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.

We can issue the person responsible with an abatement notice to stop the nuisance, or prevent it from happening again. If the person responsible does not keep to the conditions of the notice they can be fined up to £20,000. If we cannot trace the commercial operator such as a builder to issue the notice to, then we will issue the notice to the person employing them instead.

## 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 for example; someone is hurt in a car accident due to the smoke that you have produced.

## Cable Burning

Cable burning is the burning of metal cables to remove the plastic insulation so the metal beneath can be recovered. Under the Clean Air Act 1993 cable burning is an offence which carries a maximum penalty of £5,000 unless it is specifically authorised as a scheduled activity under the Environmental Permitting (England and Wales) Regulations 2007.

## 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 and under the Environmental Protection Act 1990, carries a maximum penalty of £20,000 and up to six months imprisonment if dealt with by the Magistrates' Court, or unlimited fines and up to two years imprisonment at the Crown Court. The maximum sentence is even higher (five Years) for dumping special waste that may be harmful to health.

- You are responsible for ensuring that whoever removes your waste is authorised to do so.
- You should ask for proof they are a registered waste carrier. If you are in any doubt you can check with the Environment Agency by phoning 03708 506 506.
- The Duty of Care requires that you have copies of all necessary documentation from anyone handling the waste, and all documents should be signed. This is so that no one taking the waste away can dump it illegally
- You should keep all records of all waste that you transfer within the last two years.

This information sheet is supplied by the Environmental Protection Unit at Rochford District Council.

For more information about disposal of waste and duty of care, please contact our Customer Services Team on 01702 318111. Email: [customerservices@rochford.gov.uk](mailto:customerservices@rochford.gov.uk)