

Burning of waste factsheet

The burning of waste is not an acceptable or safe way of disposal. As well as being a health hazard and harmful to the environment, it is a nuisance which may result in criminal prosecution and substantial fines.

This leaflet outlines the legal responsibilities for the correct disposal of waste.

- **The Environmental Protection Act 1990 (Section 33(1)(c))**

There is a general requirement that waste should not be kept, treated or disposed of in a manner likely to cause pollution to the environment or harm to human health. Disposing of waste by burning (including burning waste on construction or demolition sites) will pollute the environment and may cause harm to human health.

The maximum penalties for this offence on summary conviction are a £50,000 fine and/or twelve months' imprisonment. On conviction in a Crown Court the maximum penalties are an unlimited fine and/or five years' imprisonment.

- **The Environmental Protection Act 1990 (Section 79)**

The council has a duty to investigate complaints of smoke nuisance, which can result in a Statutory Nuisance Abatement Notice being served. Breach of such a notice on industrial, trade or business premises can result in fine of up to £20,000 (for domestic cases up to £5,000).

- **The Clean Air Act 1993 (Section 2)**

It is an offence to allow dark smoke to be emitted from any industrial or trade premises, with a fine of up to £20,000. Businesses are responsible to ensure this does not happen on their premises or from material arising from their business.

- **(Highways (Amendment) Act 1986)**

The police may prosecute for allowing smoke from a fire to drift across roads and endangering traffic.

- **Pollution Prevention and Control Act 1999/Environmental Permitting (England and Wales) Regulations 2010 (as amended).**

It is possible to burn certain types of material if it is properly controlled so that it does not cause a problem. These activities are controlled and regulated through permits and exemptions issued by the Environment Agency and the city council. If such material is burnt without a required permit or exemption then on conviction in the Crown Court the potential fine is unlimited and/or up to five years imprisonment.

Please contact the Environment Agency on 08708 506506 (general enquiries) / 0800 807060 (24 hour hotline number for reporting incidents) or Lancaster City Council on 01524 582935 for more information.



- **Guy Fawkes night Bonfires**

The Environment Agency has issued advice that the requirement for a permit will not be pursued if:

- ✓ The waste is kept securely before being burnt.
- ✓ The material being kept and burned is suitable for purpose (i.e. untreated wood, branches, and small amounts of leaves, card and paper and not plastics, rubber, glass, metal etc). Treated wood is any wood that has been chemically treated (e.g. to enhance or alter the performance of the original wood). If there is uncertainty whether the wood has been treated, it should be assumed to have been treated. Heat treatment on its own does not make 'treated wood'.
- ✓ The size of the bonfire or campfire is appropriate for the event;
- ✓ The location is appropriate and does not indicate the involvement of waste operators in the course of, or as a result of, their waste business
- ✓ The activity does not risk or cause pollution or endanger human health.

- **Domestic Garden Waste Bonfires**

Garden waste bonfires are permitted providing only garden waste (wood, branches etc.) is being burnt and where it does not cause a nuisance to other people in the locality. In some built up residential locations it may be difficult to burn material without affecting someone. In most circumstances it is generally better not to burn the garden waste but to dispose of it by taking it to the local waste recycling centre (see www.lancaster.gov.uk/recyclingsites).

- **Duty of Care for waste**

Businesses have a duty of care to ensure that all waste produced (including waste wood and paper and waste arising from construction and demolition sites) is disposed of correctly. This includes not burning waste, secure storage to prevent waste escaping and transportation by a legally authorised contractor with written documentation on a transfer note. Businesses are legally required to retain these documents for a minimum of two years. Not meeting these requirements is a criminal offence carrying a penalty on summary conviction of up to £5,000 and an unlimited fine for conviction on indictment.

Householders have a duty of care requiring them to take reasonable care that waste produced on their property is passed to an authorised person (for example by checking with the Environment Agency that waste is being handled by a registered waste carrier - see www.gov.uk/find-registered-waste-carrier). If fly-tipped waste is traced back to a particular household, the householders could be fined up to £5000 and on conviction on indictment an unlimited fine.

- **Don't dump waste, fly-tipping is illegal.**

The council has powers to seize and impound vehicles involved in fly-tipping and also to issue fixed penalties of £300 for a failure to register as a waste carrier with the Environment Agency or the absence of transfer note documentation. The maximum penalties for fly-tipping on summary conviction are a £50,000 fine and/or twelve months' imprisonment. On conviction in a Crown Court the maximum penalties are an unlimited fine and/or five years imprisonment.

There are number of companies locally who provide a commercial waste removal service. Please refer to the Environment Agency's web site at: www.environment-agency.gov.uk for waste disposal/recycling companies in the area. You can also get advice from WRAP on 0808 100 2040 or at: www.wrap.org.uk