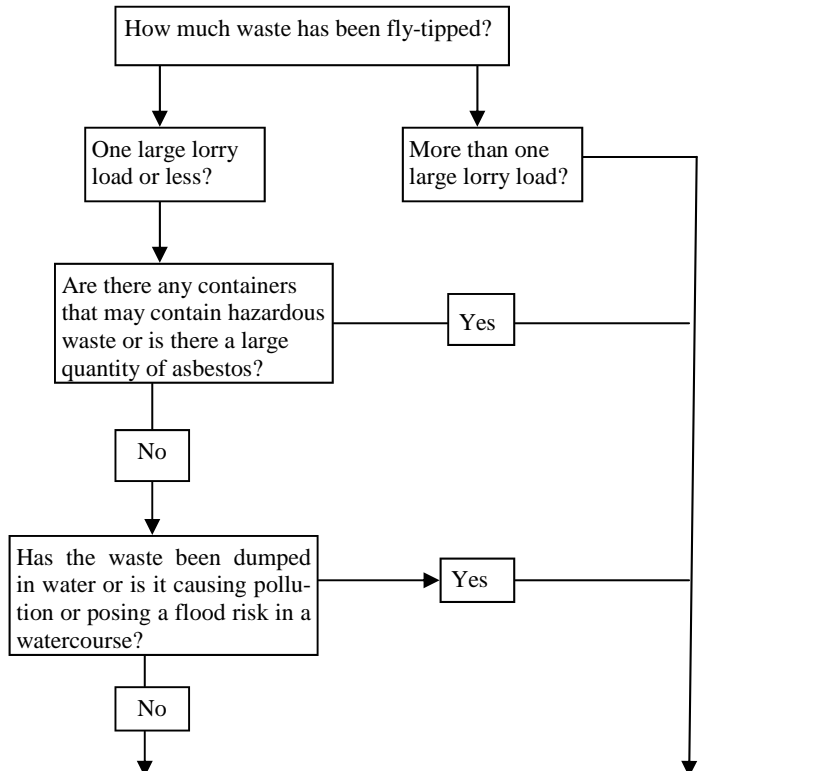


Quick Reference—who to contact



Contact your local authority

You can find contact details for local authorities in the phone directory or on the internet at: www.direct.gov.uk

When you contact your local authority say that you would like to report a fly-tipping incident. You can also request to speak to Environmental Services, Environmental Health or the Waste Department.

Contact the Environment Agency

Telephone **0800 807060** (24 hours) and state that you would like to report a serious fly-tipping incident.

For general enquiries you should telephone **08708 506506**.

Or check the website at: www.environment-agency.gov.uk

Fly-Tipping



Campaign to Protect Rural England
HAMPSHIRE



**A Guide for
Farmers and
Land Managers**

Fly-Tipping

A Guide for Farmers and Land Managers

Contents	Page
What is fly-tipping?.....	3
Flycapture.....	4
The Facts.....	5
Changes to Agricultural Waste Regulations.....	6
What to do if you come across fly-tipping.....	7
Government legislation involving fly-tipping.....	8
Who to contact.....	10
Duty of Care.....	11
Clearing and carrying the waste yourself.....	12
Prosecuting.....	13
Prevent it happening again.....	14
Tackling fly-tipping on private land.....	15
Quick Reference—who to contact	16

Further Information

CPRE Hampshire has produced a comprehensive report on the problems and solutions of fly-tipping. This is available for viewing at the CPRE Hampshire office in Beaconsfield House, Andover Road, Winchester. Please contact the office on 01962 843655

Other **deterrents** include increasing the number of prosecutions for fly-tipping on your land. Any prosecution should be well publicised in order to deter other potential fly-tippers. In more urban sites you could also install CCTV which could aid in gaining prosecutions. Dummy CCTV is cheaper and can also deter potential tippers. If the problem continues to escalate you could consider employing professional security patrols although this may be expensive. You could also consider constructing signage publicising security measures such as CCTV and zero-tolerance policies. A sign warning of the potential £50,000 fine for tipping can also prove a successful deterrent. However, signage will not always be appropriate in very rural areas.

Working with neighbours can also help in reducing fly-tipping incidents. It is useful to communicate with owners of neighbouring land to monitor the problem and perhaps pool resources.

Tackling Fly-tipping on Private Land

Fly-tipping on private land is a complex and growing problem. Due to the cost that the crime incurs to farmers, it is essential that it is tackled immediately. It is essential that every fly-tipping incident, however small is reported to the local authority. This is essential to ensure that the government can compile accurate nationwide statistics of fly-tipping, including incidents on private land. Once the government realises the extent of the problem and the huge costs that landowners have to face, actions can be taken on a national level. By reminding farmers and land managers of the importance of reporting incidents and clearing the waste as soon as possible, CPRE Hampshire hopes to increase awareness of fly-tipping on private land and prevent further pollution of the countryside.

Prevent it happening again

The first thing to consider when attempting to tackle fly-tipping is why your land is being targeted. You can then begin to take measures to make your property less vulnerable. The actions that you should take will depend on your circumstances and the extent of the problem.

You can make **physical improvements** to deter fly-tippers such as the installation of gates and barriers; however, you must ensure that you are not permanently blocking a public right of way. You should make sure that all gates are closed, or if possible locked when they are not in use. In rural areas, using trenches to prevent vehicle access may be more sympathetic. In problem hotspots you should try and improve visibility so that fly-tippers are not hidden from view. You can do this by cutting back limited areas, or small-scale re-landscaping can reduce hidden corners. A successful deterrent, especially on quiet roads which experience large amounts of tipping is to install or improve lighting, but this should be designed so as not to bring light pollution to the countryside.



Through **site management** you can deter fly-tippers. It is important that you keep all areas tidy and remove all fly-tips as soon as possible. This is important as untidy areas attract fly-tippers. You should supervise any large deliveries on your land, especially for construction or agriculture as some operators may fly-tip waste on your land during the delivery. Good site management will also ensure that the safety of visitors to your land is not endangered.

What is Fly-tipping?

"Fly-tipping is the illegal dumping of waste. It can vary in scale significantly from a bin bag of rubbish to large quantities of waste dumped from trucks. Fly-tipped waste may be found anywhere, such as roadsides, in lay-bys or on private land."

-The Environment Agency

"It should be counted as a fly-tip if the waste is too large to be removed by a normal hand-sweeping barrow. In simple terms, a single full bin bag upwards would constitute a fly-tip. Similarly several carrier bags full of rubbish dumped together would also constitute a single fly-tip."

-Department of Food, Environment and Rural Affairs

If waste is illegally dumped on private land, it is the responsibility of the landowner or manager to dispose of it correctly. If the culprit cannot be identified the landowner must also cover the cost of disposal.

As the government currently tries to encourage recycling by charging for landfill and dumping, incidents of fly-tipping are increasing. A recent survey conducted by the Country Landowners Association showed that in most councils surveyed, tipping has increased. One reason that can be attributed to this rise is that commercial waste is subject to landfill tax of £14 per tonne. Unscrupulous builders often dump construction materials to avoid paying.



Flycapture

DEFRA and the Environment Agency have recently established 'Flycapture', an on-line database designed to monitor fly-tipping incidents. When fly-tipping is reported, the details are recorded on the database, forming nationwide statistics detailing the extent of the problem. However, as the majority of fly-tipping on private land is not dealt with by the Environment Agency or local authorities, the incidents are often not reported, therefore causing the Flycapture figures to be a gross underestimation of the scale of fly-tipping.

The Flycapture figures show that rubbish is illegally dumped somewhere in the United Kingdom every 35 seconds, costing local authorities almost £100 a minute in clean-up costs. Since these statistics only include fly-tipping on public land, the situation is far worse than even these dreadful figures suggest. Until all incidents are reported both on public and private land, the true scale of fly-tipping will never be ascertained and the necessary resources to deal with the problem will never be allocated. Comprehensive figures are needed for formulating informed policies on how to deal with the growing problem to society of fly-tipping and how the landfill tax and other measures introduced by Government may actually be fuelling the fly-tipping business. It is therefore essential that you report every incident on your land. To find out who to contact see page 10.



Prosecuting

Under the Environmental Protection Act anyone can take a prosecution against fly-tipping. In practice prosecutions are usually brought by the local authority or the Environment Agency. You should be as helpful as possible in the investigations to assist in preventing fly-tipping, and if a conviction is gained you may be able to reclaim the cost of clearing the waste (Environmental Protection Act 1990 s.33).

You can bring a private prosecution; however it may be difficult without support from your local authority or Environment Agency and may prove expensive. If you feel that you would like to bring a prosecution, you can consider the following legislation against fly-tippers:

- The Environmental Protection Act 1990
- The Duty of Care set out in section 34 of the Environmental Protection Act 1990 and associated regulations
- Control of Pollution (amendment Act) 1989
- Laws against trespassing (see page 8).



Clearing and Carrying the Waste Yourself

If you do not want to incur the cost of contracting a waste carrier, you can take the fly-tipped waste to a licensed waste disposal site. There are 24 sites in Hampshire which take various wastes. A list of the sites is shown below. For opening hours other information contact the site directly or visit:

www3.hants.gov.uk/environment-waste_recycling-hwrclocations.htm

If you choose to take waste to one of the listed sites, you should contact the site before hand to ensure that your vehicle will be allowed on site (some sites do not allow tractors or other large vehicles due to health and safety). You should also check that they will accept the types of waste concerned, their opening hours and what the charge will be for accepting the waste. If you suspect that the fly-tip contains hazardous waste such as asbestos you should be very careful. You should immediately contact the Environment Agency on **08708 506506** and ask for advice.

Hampshire Waste Disposal Sites

Aldershot - 01252 315312	Hayling Island - 023 9246 2566
Alton - 01420 542572	Hedge End - 01489 780028
Andover - 01264 351421	Marchwood - 023 8066 6376
Basingstoke 01256 461750	Netley - 023 8040 6182
Bishop's Waltham - 01489 896696	New Alresford - 01962 735961
Bordon - 01420 488931	Petersfield - 01730 264203
Eastleigh - 023 8064 4106	Segensworth - 01489 589396
Efford (near Lyminster) - 01590 672891	Somerley (near Ringwood) - 01202 828083
Fair Oak - 023 8069 4541	Timsbury (near Romsey) - 01794 368548
Farnborough - 01252 541277	Waterlooville - 023 9226 1455
Gosport - 023 9252 4112	Winchester - 01962 868523
Hartley Wintney - 01252 845312	

The Facts

- Each month in England there are on average 89,173 reported incidents of fly-tipping.
- Over 550 black bags are illegally dumped every day.
- Only 1,500 prosecutions were taken against fly-tippers between April 2005 and March 2006.
- Every day almost 2,500 small loads of rubbish are illegally dumped.
- Rubbish is illegally dumped somewhere in England every 35 seconds.

THIS IS A SERIOUS PROBLEM!



Changes to Agricultural Waste Regulations

In comparison to householders who can dispose of their waste through free curbside collections, or at household amenity centres, farms are classed as businesses, therefore waste dumped on privately owned land must be disposed of by land managers under the business waste disposal regulations, which usually incur costs.

Until recently, farmers and landowners have been able to dispose of fly-tipped waste on their land with relative ease and little cost as many simply disposed of it along with other waste on their farm. Methods included burying, burning or using a farm tip. However, on the 15th May 2006 new regulations were introduced to prevent these waste disposal methods due to the pollution that was being caused. Farmers and landowners must adhere to the regulations by the 15th May 2007. These affect whether waste can be burnt, buried, stored, used on the farm or be sent elsewhere. The regulations will therefore change the way in which farmers and landowners can dispose of waste dumped on their land through fly-tipping.

Some exemptions to the new regulations can be used; for example if a farmer wishes to use waste tyres on silage clamps or shredded waste paper to use as livestock bedding. However, farmers must no longer use the farm dump/tip and must also stop burying waste. The new regulations also prohibit the burning of waste in the open air, particularly plastic and tyres, two materials that are regularly fly-tipped. However, it is still legal to burn natural waste such as hedge trimmings and untreated wood. Garden waste is often fly-tipped, therefore this can be disposed of through safely burning it. Farmers are still authorized to store waste for up to twelve months but it must be done securely. Therefore, it is not necessary to dispose of fly-tipped waste immediately but it must be cleared and stored securely in order that it does not become windblown or cause pollution.

Duty of Care

The Duty of Care applies to anyone involved in the handling of any waste. When you are clearing and disposing of waste that has been fly-tipped you have a duty to ensure that the waste carrier you give the waste to is licensed and that they are taking the waste to a legal waste disposal site.

You must follow these simple rules to ensure that you are complying with your duty of care:

- You must ensure that any waste, including fly-tipped waste is kept secure so that it doesn't leak or blow away.
- When giving the waste to someone else, ask them to produce evidence that they are licensed to carry waste. You can check that they are registered by contacting the Environment Agency on 08456 033113 or checking their online database.
- You must also ensure that the waste is taken to a licensed disposal site

You must give the person who is taking your waste a transfer note. The note must include a description of the waste and be signed by both of you. You must keep a copy of every transfer note for a minimum of two years. You can download a waste transfer note at:

www.netregs.gov.uk/commodata/acrobatwaste_transfer_note_1558346.pdf

If hazardous waste is involved you must complete a 'consignment note' which asks for similar information to a waste transfer note.

The Duty of Care is not just a burden. It is one of the main pieces of legislation which can be used to combat fly-tipping. All businesses and householders have a Duty of Care when handling their waste. This means that if waste is fly-tipped and evidence of the owner is found in the waste, the owner cannot use the fact that they themselves did not dump the waste to avoid prosecution. Everyone has a duty to ensure that they check the legality of the carrier and ensure that the waste is taken to a licensed site. For more detailed information about Duty of Care you can obtain a copy of 'Waste Management – the duty of care – a code of practice' (ISBN 011753210X) from the Stationery Office bookshops on **08706005522**

Who to Contact

Regardless of whether land is public or private, all fly-tipping incidents should be reported. However, there is no single national point of contact to report fly-tipping. You must contact either the Environment Agency or your local authority to see if they will investigate or deal with the problem.

Local authorities are responsible for dealing with most types of small scale fly-tipping. The Environment Agency deals with bigger incidents such as those involving more than one load of waste. The Environment Agency should also be contacted if you suspect the incident to be involving hazardous waste or organised crime. You can also report incidents to your local police. If the waste is on private land it is unlikely that your local authority or the Environment Agency will clear the waste for you but they may be able to provide other assistance or advice.

Until the waste can be removed, it must be secured. This may call for a temporary fence to be erected around the tip. This will protect the public from any dangerous waste and will ensure that any evidence is left intact for an investigation. Advice can be gained from your local authority or the Environment Agency. It is essential that you check that the waste contractor is operating legally.

You can check licensing of waste carriers by contacting the Environment Agency by telephone on **08708 506506** or by checking their online database at:
<http://www2.environment-agency.gov.uk/epr/search.asp?type=register>.

You must ensure that the waste carrier is licensed in order to adhere with your Duty of Care.

What to do if you come across fly-tipping

IMPORTANT

It is essential that when you come across any fly-tips, before you take any action you must ensure that it is safe to do so. You must be extremely careful as some waste may contain dangerous items such as sharp objects or asbestos which can be hazardous. It is important that you do not open any bags or drums. Piles of soil may be contaminated or may be hiding dangerous material.

Recording details

It is important that you remember that fly-tippers are doing something illegal – they are unlikely therefore to welcome people observing them or taking photos. If you find or witness fly-tipping, whatever the waste is, it is essential that you record as many details about the incident as possible. Detailed information will help the authorities to take action against the culprit. Remember that if the waste is on your land and a conviction is obtained, you may get back money spent in clearing it up. So, record the following details carefully;

- The date of the incident or the date it was discovered.
- Did you witness the incident or discover the waste afterwards?
- Location (including proximity to water, watercourses etc) Grid reference if possible.
- A description of the waste.
- The quantity or volume of the waste.
- If you witnessed the fly-tipping, record details such as the number of people involved and what they looked like. Did you recognise them? What did they do? Was there a vehicle involved? If possible take photographs.
- Method and cost of disposal.

Government Legislation involving Fly-tipping

The main legislation which tackles fly-tipping is the Environmental Protection Act, 1990. The basics of the legislation are set out below:

- A person shall not deposit waste on any land unless a waste management licence authorising the deposit is in force
- Anyone who commits the offence of fly-tipping shall be liable for imprisonment for a term no longer than 6 months or a fine not exceeding £20,000, or both
- If the case is transferred to the Crown Court, fines are unlimited and imprisonment can reach 2 years, or 5 years if the waste was hazardous.
- Where fly-tipping involves a vehicle the driver can be prosecuted, as can the owner.

Landowners have an obligation to manage the waste on their land, including fly-tipped waste in order to avoid running the risk of breaching Health and Safety legislations and endangering visitors on their land (whether or not they have been invited to be there) (Occupiers' Liability Act 1957, 1984; Health and Safety at Work Act, 1974). There is legislation which also works in the favour of the landowner. These include the Environmental Protection Act under which fly-tippers can be prosecuted. If a conviction is gained, the landowner may be able to reclaim the costs of removing the waste as part of the sentence. Laws relating to trespassing can also sometimes be used to tackle fly-tipping. The police have powers to remove trespassers, or the landowner can appeal to a Magistrates' Court if they consider that a person is interfering with their use or enjoyment of their land (Public Order Act 1986: Environmental Protection Act, 1990 Part iv.)

The Refuse Disposal Amenity Act 1978 can be used in relation to abandoned vehicles and the Proceeds of Crime Act 2002 can also be considered in the prosecution of more serious offenders. Antisocial Behaviour Orders (ASBOs) may be obtained in some cases.

All householders must take responsibility for their waste under The Waste (Household Waste Duty of Care) Regulations which came into force on the 21st of November 2005. Householders hold accountability in ensuring that their household waste is removed by licensed carriers only, in order to avoid fines of up to £5,000. The Duty of Care is one of the main ways to combat fly-tipping as if proof of the waste producer is found in the tip, the owner of the waste can be prosecuted even though they may have 'contracted' someone else to dispose of it. Businesses, including farms must also comply with the Duty of Care regulations. Farmers and landowners, therefore have a duty to ensure their waste is given to a licensed waste carrier. Ensuring the carrier is licensed can be checked by contacting the Environment Agency or checking the Agency's online database of licensed carriers.

The Clean Neighbourhood and Environment Act was implemented in 2005 in an attempt to deal with the issue of fly-tipping. The Act covers matters such as the better enforcement of the waste offence and stricter sentences. Disappointingly, the Act does not require that fly-tipping on private land should be addressed directly by local councils or the Environment Agency, but without local authorities taking responsibility for clearing such material on all land, and treating the prosecution of offenders as a priority, there are less effective deterrents against fly-tipping.