

DE&S SAFETY AND ENVIRONMENTAL PROTECTION LEAFLET 20/2024

Responsibilities for Waste in DE&S Acquisition

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INTRODUCTION

1. Joint Service Publication (JSP) 418 [1] Leaflet 3 – Waste Management [2] and Leaflet 11 - Retention of Environmental Protection Records [3] provide the overarching guidance and best practice for the MOD regarding waste management.
2. Delivery Teams (DTs) in Defence, Equipment & Support (DE&S) are considered ‘waste producers’ and have legal responsibilities to:
 - a. correctly classify items as waste, and therefore store and dispose such items in a legally compliant manner;
 - b. ensure the waste hierarchy [4] is applied and the best overall environmental outcome is achieved when items become surplus to requirement; and
 - c. retain appropriate records relating to the transfer of the waste, whether using 3rd party waste carriers and contractors directly or via Defence Equipment Sales Authority (DESA) [5].
3. The purpose of this Leaflet is to provide supplementary guidance to support DTs, and ultimately DE&S, fulfil their legal responsibilities for items¹ of equipment and inventory under their control when such items are no longer required by the user.

BACKGROUND

4. Statutory guidance in relation to the management of waste is set out in the Waste Duty of Care Code of Conduct [6].
5. Legal definitions used in UK legislation are derived from the EU Waste Framework Directive the following are relevant:
 - a. ‘waste’ means any substance or object which the holder discards or intends or is required to discard;

¹ This includes items as through life replacements, as well as at end of life.

- b. *'waste producer'* means anyone whose activities produce waste (original waste producer) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;
- c. *'waste holder'* means the waste producer or the natural or legal person who is in possession of the waste;
- d. *'broker'* means any undertaking arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;
- e. *'collection'* means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility.

WASTE PRODUCER RESPONSIBILITIES

- 6. A DT falls within the definition of Waste Producer. The DT, and ultimately the Senior Environmental Responsible (SER) individual, is responsible for applying the waste hierarchy [4]. This hierarchy requires priority to be given to waste prevention (noting that the best time to influence this is often during design). When waste is created, application of the waste hierarchy then gives priority to preparing waste for re-use, then recycling, then recovery, and last of all disposal (e.g., landfill). The steps taken should be documented in the disposal plan or equivalent.
- 7. DESA can assist a DT to exploring options for reuse, but this does not absolve the DT of its obligation in this regard. Options for internal reuse should be considered prior to options for onward sale.
- 8. The SER has ultimate duty of care responsibilities (see reference 6 for further guidance) and is therefore accountable for ensuring the following legal requirements are complied with:
 - a. checking whether a person or business is authorised to take waste before the DT transfer the waste to them (see Annex A);
 - b. for non-hazardous waste, ensure written description of the waste is agreed and signed by the SER and the next holder (usually in the form of a waste transfer note) (see Annex B);
 - c. for hazardous waste, ensure that a waste consignment note is accurately completed for all movements of the waste (including from one premises to another even if both premises are MOD owned and controlled) (see Annex C);
 - d. ensure that waste transfer notes are retained for at least two years and waste consignment notes are retained for at least three years. These documents must be retained as records in accordance with DE&S Records Management Policy [7].

WASTE BROKER

- 9. Where waste is disposed of through DESA using:
 - a. the Disposition Management System (DMS) - it is to be recorded in the relevant documentation referred to above (either waste consignment note or waste transfer note);
 - b. DESA as a registered Waste Broker - DESA may be able to retain records on behalf of the DT, particularly where a DT may be in the process of being disbanded. This must be agreed with DESA on an individual basis prior to any reliance being placed on this method of record retention.

INTERPRETATION OF “DISCARD”

10. The legal definition of waste is intentionally broad, and DTs must ensure they are cognisant of when items become waste. The interpretation of the term “discard” is particularly relevant. There has been extensive litigation in this area and the Environment Agency have produced guidance [8] based on the body of caselaw available. This guidance should be consulted if DTs are unsure if items have been discarded.
11. In relation to equipment and inventory DTs should follow the interpretation below:
- a. Where there has been a **declaration of the intent** to dispose of an item(s), it has been discarded and is waste, including but not limited to:
 - i. Any declaration for disposal on an inventory management system where there is no route to reuse or sale;
 - ii. Any documented decision that items are no longer required and that there is no route to reuse or sale.
 - b. Where there is a **requirement to dispose** of an item(s), it has been discarded and is waste, including but not limited to:
 - i. Hazardous goods that have reached their use by date;
 - ii. Perishable goods that have reached their use by date;
 - iii. Other items which have reached their use by date, and it is not possible to repurpose the item or refresh the use by date.
 - c. Where an item(s) is stored with **E0 classification (unserviceable) and there is no specific plan to bring that item back into serviceable condition**, the item(s) has been discarded and is waste;
 - d. Where an inventory optimisation exercise has taken place and **excess stock** has been identified, the excess has been discarded and is waste.
12. With respect to point 11.c and 11.d above, if the owner(s) (e.g., Front Line Command (FLC) client or Senior Responsible Owner (SRO)) or DT believe the item(s) is not waste the DT must provide a reasoned argument that the item(s) is not waste. The relevant SER must consider the argument and make a decision as to the status of the item(s). This decision must be documented.

DISPOSAL

13. Where an item(s) is identified as waste, a DT must not request or allow for the item(s) to be sent to a storage facility (e.g., in a MOD depots or warehouses). A DT must arrange for disposal of the waste as soon as reasonably practicable.
14. Where the item(s) is already in storage in an MOD warehouse, the DT must inform the operator of the warehouse that the item(s) is waste and arrange for its disposal as soon as reasonably practicable.
15. Where an item(s) is identified as waste, but there is no extant DT holding responsibility for those items, an appropriate Executive Environmental Responsible (EER) individual for the organisational area has responsibility for arranging the appropriate storage and disposal of those items.

ANNEX

Annex A – Checking Waste Authorisations

Annex B – Waste Transfer Notes

Annex C – waste Consignment Notes

REFERENCES

- 1 JSP 418: Management of Environmental Protection in Defence, Part 1 Directive, [Management of environmental protection in defence \(JSP 418\) - GOV.UK \(www.gov.uk\)](#).
- 2 JSP 418, Management of Environmental Protection in Defence, Leaflet 3 – Waste Management, https://assets.publishing.service.gov.uk/media/64de32a860d123000d32c6f8/JSP_418_Leaflet_3.odt.
- 3 JSP 418, Management of Environmental Protection in Defence, Leaflet 11 – Retention of Environmental Protection Records, https://assets.publishing.service.gov.uk/media/64df55c360d123000d32c753/JSP_418_Leaflet_11.odt.
- 4 Guidance on applying the Waste Hierarchy, Defra, [Waste hierarchy guidance \(publishing.service.gov.uk\)](#).
- 5 Defence Equipment Sales Authority (DESA), [Defence Equipment Sales Authority - GOV.UK \(www.gov.uk\)](#).
- 6 For waste producers in England and Wales: [Waste duty of care code of practice.pdf \(publishing.service.gov.uk\)](#)
For waste producers in Scotland: [Waste | Scottish Environment Protection Agency \(SEPA\)](#).
- 7 [DE&S Records Management - Policy.docx \(sharepoint.com\)](#)
- 8 Environment Agency Guidance: Check if your material is waste, [Check if your material is waste - GOV.UK \(www.gov.uk\)](#)

ACRONYMS / ABBREVIATIONS

DE&S	Defence Equipment and Support
DESA	Defence Equipment Sales Authority
DT	Delivery Team
EER	Executive Environmental Responsible
JSP	Joint Service Publication
SER	Senior Environmental Responsible

ANNEX A – CHECKING WASTE AUTHORISATIONS

16. Environmental permits are usually publicly available on registers maintained by the relevant statutory regulator:
- a. In England - [Public Registers Online \(data.gov.uk\)](https://data.gov.uk);
 - b. In Wales - [Natural Resources Wales / Public register: environmental permitting, water resources and marine licensing information](#);
 - c. In Scotland - [Public Register | Scottish Environment Protection Agency \(SEPA\)](#);
 - d. In Northern Ireland - [Public registers | Department of Agriculture, Environment and Rural Affairs \(DAERA\)](#).
17. There are different forms of authorisations which may be applicable, and it will be necessary to understand the nature of the waste needing to be disposed of in order to search the appropriate register.
18. Where a DT requests disposal of waste through DESA they will be able to confirm whether the appropriate permits and licences are in place for relevant waste contractor(s).

ANNEX B – WASTE TRANSFER NOTES

20. Information required in a waste transfer note:

1. Description of the waste including:
 - a. Written description
 - b. List of Waste Code
 - c. Tonnage
 - d. How the waste is contained
2. Details of the transferor
 - a. DT details
3. Details of the transferee
 - a. Waste contractor name
 - b. Address
 - c. Permit number or equivalent
4. Details of the transfer
 - a. Address where transfer takes place
 - b. Broker details

21. A form containing this information can be found here: [Layout 1 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

ANNEX C – WASTE CONSIGNMENT NOTES

22. A waste consignment form can be found here: [LIT 6872.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

23. Additional guidance can be found here: [Hazardous waste: consignment note guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk)