

# Do You Care?

CIWM's recent webinar on the Duty of Care asked participants if they knew where their own Duty of Care actually ended. One of the webinar presenters, **Lara Ayris**, reviews the session and the key information that was gleaned...



For those of you who were unable to listen into our recent webinar on Duty of Care (and many who wanted to were unable, as it was a "virtual full house") you missed a very thorough discussion on the regulations, with a particular focus on where a waste producers' responsibilities end, along with "top tips" for compliance. The objective of the webinar was to raise the profile of Duty of Care, for the listeners to consider the true extent of Duty of Care and to gather feedback from the audience.

The first half provided an overview of the legal obligations relating to Duty of Care and included such topics as classifying waste; when to register premises; how to store and move waste; and who requires permits and exemptions. We addressed the reasons why we have a Duty of Care, and discussed the cost of fly-tipping (and

suggest that waste contractors are regularly audited with checks to include valid carrier licences, permits/exemptions and the completion of waste transfer notes. It is also worth proving that your waste is being taken to the specified disposal site by literally following it, if necessary, and then conducting a site audit to record how it is processed and whether, for instance, mixed waste is segregated for recycling.

A suggested review of practices at your site(s) could include the following:

- are your bins full on collection? – particularly important if you're on a container-based charge
- are there any issues with the quality of material in the bins?
- is there potential for further segregation of some streams (this could reduce costs with some waste contractors)? This can be

construction industry, mainly around the issue of lack of awareness and understanding the responsibilities. Waste is rarely correctly documented and Duty of Care audits are, in the most part, non-existent.

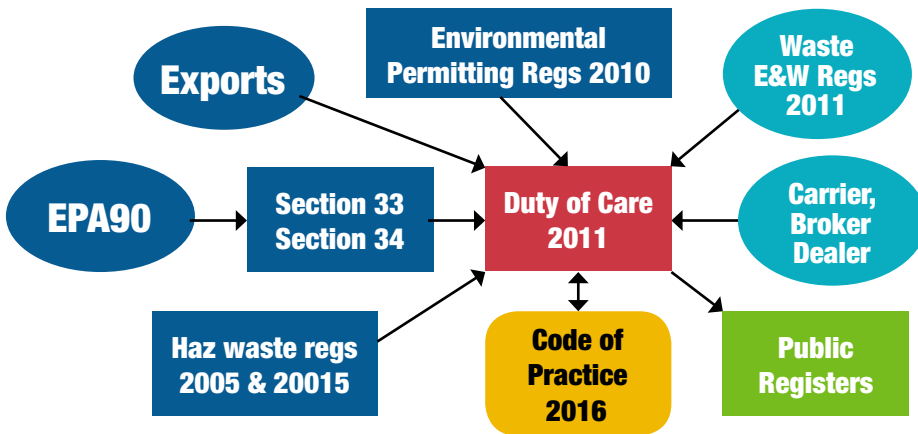
In an ideal world, all site managers should have a "working knowledge" of the Duty of Care regulations and the accompanying responsibilities so that when waste leaves site, the documentation can be checked – it is too late to correct a waste transfer note when the copy arrives at head office. To support the site managers all main contractors should have access to a Duty of Care specialist, who would provide the ongoing education and handling of complex / awkward scenarios, as well as ensuring compliance with Defra's new code of practice.

During the webinar several mini polls were conducted with a view to analysing knowledge levels relating to the Duty of Care regulations, the understanding of such and the implementation standards being achieved.

The polls demonstrated the following results:

- there are still people with very little knowledge of Duty of Care (50 percent said their knowledge was "basic", just "ok" or "non-existent")
- there is still a need to know more, even after some guidance
- contractors' performances are not being reviewed (25 percent) or compared to others (25 percent)
- more education / training is wanted, particularly in relation to enforcement.

On a more personal note, since I founded my business, which focuses on compliance in the construction industry, my biggest surprise has been how badly Duty of Care is implemented; not just in the construction industry, but across



waste crime in general) – now estimated at £1bn per annum – as well as stressing that Duty of Care also reduces harm to human health and the environment, in addition to focussing on waste resources and the hierarchy. Defra's issuing of a new Code of Practice ([www.gov.uk/managing-your-waste-an-overview/overview](http://www.gov.uk/managing-your-waste-an-overview/overview)) was also discussed.

Another speaker, Nia Owen, gave some "top tips" regarding the Duty of Care in manufacturing industries,

achieved by mapping wastes in your manufacturing process.

My own area of expertise is in the construction industry, where the Duty of Care is unique, due partly to the different phases of site activity... demolition, groundworks and then construction, but it is also affected by the prevalent use of sub-contractors.

There are several challenges for Duty of Care compliance within the

## A Construction Sector Case Study...

### Lara outlines a case that she recently had to deal with:

"One of my clients was finishing the groundworks phase of a project and had organised for 80 trucks to remove the last of the excavated arisings (soil and stone) on this particular Friday. However, when the first truck left site, the site manager thought it odd that no waste transfer note (WTN) had been given to him. It just so happened that he had been on one of a Duty of Care refresher courses only a few weeks previously, so was reasonably confident about what to expect when waste left site. He decided to wait and see whether a WTN would be provided for the next load. It wasn't, so the site manager decided to contact his head office and related the circumstances to the project quantity surveyor (QS).

"The QS was due on site that day anyway, so decided to go straight to the site and investigate further. By chance, he arrived just as another truck was leaving site and having been informed by the site manager that yet again no WTN had been provided, he decided to follow this truck to find out where the waste was being taken. In actual fact, the load was tipped in the middle of a field. At this point the QS phoned me to ask me to investigate further and find out what was happening with regard to Duty of Care.

"My first phone call was to the groundworks sub-contractor to ask what was happening with the waste. I was duly informed that there was no waste, as he had sold the soil and stone to the haulier who was removing it from site. I informed him that the soil and stone was in fact leaving the site as waste. My next call was obviously to the haulier, who again insisted that this was not waste, as he had sold it on. When I then queried where the soil was being tipped he informed me that he had sold it to the local council to use as a bund for their next site. To cut a long story short, I fast tracked an exemption, to cover the tipping site, on behalf of the council, in order that my client could continue with the removal of the soil and stone and keep the project on schedule. If I had not been able to do this my client could have found themselves with a "closed site" whilst the exemption was processed.

"This is a typical example of the ignorance that exists with regard to Duty of Care, but at least my client was aware of the regulations and their responsibility with regard to the disposal of their waste, not just its removal from site."

manufacturing and retail sectors too.

These findings are supported by the amount of time it has been necessary to spend helping companies comply with their Duty of Care and implementing practical solutions to ensure compliance. At the end of the day, Duty of Care is not rocket science, it simply



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"dog with a bone" and an understanding of the regulations and where your responsibility ends. But that is ALL that is required.

In most cases, the appalling way that Duty of Care is adhered to is due to a direct lack of knowledge and awareness, but when has it been acceptable in law to use the excuse "but I didn't know"? Not only do I hear that excuse from the waste producers, but I have also heard it from a few waste carriers as well, which only worries me more.

I am very passionate about Duty of Care and my passion for this area only grows on what seems to be a daily basis, based on what I see in the field.

Permitted sites are better equipped to deal with Duty of Care, and I know they fight for similar changes as I do. But why is it that the permitted

sites seem more aware of their responsibility?

Does it come down to the extra training they seem to have? The qualifications and experience they seem to need to run a waste permitted site? I can only deduce that it does.

Unfortunately, exempt sites do not seem to have the same level of awareness... why? I can only

conclude it is down to the lack of awareness and therefore training they have had. Currently anyone can apply for an exemption, they do not need to have any formal training and could be raising an exemption for a variety of reasons. None of this is checked when the exemption is applied for.

With waste carriers, you pay £154 to the Environment Agency, fill in a very simple form, and say you want to carry waste... and then you get given a three-year carrier licence. No training is required, no awareness is tested; it is simply good will.

The practices that I see in the field each day concern me and I don't find it acceptable that soil can be "fly-tipped" onto land that will perhaps become a housing estate where no control has been applied and there is no real knowledge of what is in that soil. There has got to be a better way. Let's try and find it together! ■



### The Author

Lara's background was in construction and waste with CIWM and the Building Research Establishment, before founding WPS in 2009 to help construction companies comply with Site Waste Management Plans and Duty of Care regulations. She won the coveted Outstanding Woman in Construction award in 2012 and now lectures part-time at Coventry University.