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RISK MANAGEMENT

# Waste management RISKS

An overview of the risks posed from waste management operations, including health and safety and pollution hazards.

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**T**he waste and recycling industry has seen sizeable growth in the last decade with nearly a quarter of a million workers across the sector.

A significant proportion of the workforce consists of agency staff and migrant workers. The Health and Safety Executive's (HSE) annual workplace fatality statistics for 2019/20 show there were five fatal injuries to workers in waste and recycling within the year. This figure is below the industry average of nine fatalities a year recorded in 2015/16 and 2019/20<sup>1</sup>. ➤



Whether this reduction is a statistical anomaly or the sign of safety improvements within the industry remains to be seen, however, organisations involved in waste and recycling must continue efforts to develop or enhance positive safety cultures within their teams.

The public waste management operation involves the collection, sorting and disposal of municipal waste through organised household collection services for general, recyclable and garden waste. In addition, councils have responsibility for business waste collection, bulk waste collection, road sweeping, public bin disposal and management of and response to fly tipping.

Following collection, waste material is sorted, treated and eventually reused or disposed of. This involves a range of physical, chemical, biological and physiological risks that require a robust safety management system to ensure the protection of operatives.

### Challenges

Some of the challenges in waste collection are compounded by a historic 'task and finish' working culture, where operatives who finish their collection rounds quickly are rewarded with an early conclusion to their working day. It is easy to appreciate that in these circumstances, health and safety procedures may be viewed as a hindrance.

Collection methods may be affected by changes to working trends, such as target-related waste separation, which conflicts with legislative pressure for councils to reduce frequency of collections as part of cost savings.

Accommodating adverse weather conditions and adapting to difficult or altered driving conditions and speed restrictions, can slow collection rates and create additional pressures on crews.

Other factors include narrow roads and cul-de-sacs, which pose as many hazards for refuse crews as fast-flowing main roads; impatient road users; and street furniture to manoeuvre around, with low-speed accidents involving obstacles quite common.

As a result of the pandemic, there have been an



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increase in parked cars due to increased working from home. For collection crews this has created an additional challenge of navigating through more parked traffic than usual.

### Safety culture

One of the HSE's priorities is to support continued improvements in safety culture and workforce engagement and increasing general levels of health and safety competence within the sector<sup>2</sup>.

It is vital that there is effective management to support a proactive health and safety culture, so those at the sharp end feel they have the right tools and are



1 fire a day

The Environment Agency reports there is approximately one fire a day at recycling facilities in the UK.

using them to effectively manage risks they encounter.

In their publication *RR1057 Supervisor and team leader competencies in roadside waste and recycling collection 2015* the HSE outlines that: “the majority of training provided in support of supervisors and team leaders focuses on developing their technical knowledge and skills rather than the attitudes and behaviours that underpin them. The development of communications and leadership skills appear secondary. There is little or no evidence that training takes into account the complex working environment<sup>3</sup>.”

Strong and visible leadership by management, together with effective workforce involvement,

promotes a positive health and safety culture. Directors and senior managers of refuse collection services should consider the questions and information on the Leadership page of the HSE’s website<sup>4</sup>.

All managers in an organisation demonstrating a healthy safety culture will understand the form and nature of their culture and risks in their organisation. A common misinterpretation at senior management level is an expectation that supervisors will change culture by diktat; however, where this is not felt to be supported at a higher level, cultural change will be slow.

Managers who express an understanding of safety culture will not tolerate violations of procedures. They actively try to improve systems to discourage violations, for example, plan work so short cuts aren’t necessary to complete the work in time.

### Risk assessment

The risks presented by waste management can be mitigated substantially through careful planning and implementing robust risk management practices. The HSE provides resources on topics such as manual handling, noise and vibration, control of substances hazardous to health, and driving at work<sup>5</sup>.

Detailed, specific and adequate risk assessments must be completed, communicated and reviewed regularly. Risk assessments should cover all aspects of the refuse management operation. For example, the collection assessment should consider the route, equipment specification, use of equipment, tasks performed by each member of the crew,

weather conditions, and the methods of entering and exiting the vehicle. Each operational risk should be assessed and controlled as far as is reasonably practicable. They should, by default, involve consultation with and contribution from the workforce.

Refuse vehicles can be considered mobile factories, with operatives working in and around the vehicle at all times. The crew continuously undertakes dynamic risk assessments and makes quick judgements to manage the risks around them, protecting themselves, colleagues and the public. A council has a duty to ensure crews have appropriate training, guidance, equipment and supervision to operate safely. ➤

## Safety regime

As an employer, a council must be confident refuse operations are being carried out safely. This includes ensuring policies and procedures are followed and expected reductions in risk exposure are achieved. Different methods can be used to comply, of which the most common are outlined below.

### Councils usually employ all these methods and keep records to demonstrate their systems:

- Detailed investigations into incidents and near misses should be carried out to establish if the prescribed controls were in place at the time. Investigations should be carried out as soon as possible after an incident, with thorough recordkeeping. Claimants have up to three years to make a personal injury claim, so if adequate information is not gathered at the time, management of a subsequent claim may be seriously impeded.
- On a regular basis, managers should check the work of those under supervision to ensure prescribed standards are being met. These checks should be recorded. Over the course of a year, managers and senior managers should also carry out spot checks on operational activities. These spot checks are intended to check compliance with risk assessments, method statements and departmental policy.
- On a regular basis, managers should check team member records, ensuring they are up-to-date and accurate.
- On an annual or semi-annual basis, senior managers should assess their own systems. This should compare compliance with company policy, and overall effectiveness of the systems.
- There should be a regular audit of the management systems by an independent and competent person or organisation. A council can stipulate the frequency of audits, depending on the results, the level of risk exposure, and the level of assurance required by senior managers.
- Senior managers must check the effectiveness of systems to give hands on experience with operational activities. For example, this may mean a director or senior manager spends time with the refuse collection or disposal team in an operational context.

**None of your existing policies are likely to provide you with any cover for liabilities resulting from gradually occurring pollution or pre-existing (historic) pollution conditions.**

- Councils should regularly review the effectiveness of their systems, including using reactive data such as incident and claims statistics, and proactive data such as risk assessment reviews, training schedules, and action plans.

## Pollution risks

A range of pollution risks can impact waste operations, from transportation through to recycling and ultimately end disposal.

Fire is a big issue for operational waste recycling facilities. The Environment Agency reports there is approximately a fire a day at recycling facilities in the UK<sup>6</sup>. Other than smoke, one pollution hazard is firewater runoff contaminated with a range of pollutants escaping to third-party property, rivers and waterways.

In addition to fires, group litigation claims for odour nuisance have been significant in the size of claim for both operational landfills and waste recycling centres. There have been third-party claims, both insured and uninsured, for recycling plants ranging from wood chip and composting through to household waste and anaerobic digestion.

The costs of a legal defence can be significant, along with any remediation measures and associated third-party settlements. Owners and operators should explore the coverage they have to protect and manage the costs of potential pollution claims.

### Are you adequately covered under your policy?

Pollution liability coverage under your public and products liability policy is probably limited to third-party claims resulting from a sudden identifiable, unintended and unexpected incident, which takes place in its entirety at a specific moment in time and place during the period of insurance. If you do not have a specific pollution and contamination clean-up extension on your public and products liability policy, you are probably not covered for the cost of remediation required by or incurred by a regulatory authority, such as the Environment Agency (for example, clean-up of watercourse pollution) even after a sudden, identifiable, and unintended incident.



## Group litigation claims for odour nuisance have been significant in the size of claim for both operational landfills and waste recycling centres.

Check your cover, as if you do have a 'clean-up extension' to your standard liability policy, it is likely to exclude clean-up of your owned property and exclude restoration of flora and fauna; 'natural resource damage liabilities'.

Pollution coverage under your property or material damage or business interruption policy is most likely to be limited to loss resulting from property damage or business interruption caused by pollution associated with a defined peril. The definition of 'property' in a policy normally excludes land, so the policy probably does not cover pollution damage to land or water at your owned sites (perhaps other than limited coverage for debris removal).

### What does this mean?

None of your existing policies are likely to provide you with any cover for liabilities resulting from gradually occurring pollution or pre-existing (historic) pollution conditions. Owners, landlords and operators of landfill sites should take specific advice on this aspect of cover.

### None of your existing policies are likely to provide you with:

- Effective cover for pollution clean-up of land or water at your owned sites.
- Any cover for environmental damage liabilities (biodiversity or natural resources restoration).
- Any cover for liabilities resulting from gradually occurring pollution or pre-existing (historic) pollution conditions.
- Effective cover for pollution clean-up of land or water at your owned sites.
- Any cover for environmental damage liabilities (biodiversity or natural resources restoration).
- Cover for business interruption due to a pollution condition.

Where any form of pollution coverage is provided under any existing policies, it is likely to be a complete exclusion, other than where specific stated conditions are met. This includes 'sudden identifiable, unintended, unexpected...'; 'from a defined peril'. This is likely to put the onus on you, (not the insurer) to prove all the conditions for pollution coverage have been met. ➤

### Pollution liability insurance

The main option to increase insurance coverage for pollution liabilities significantly is to purchase a specialist pollution liability insurance policy. This covers sites and activities. Standard pollution legal liability policies provide site-specific cover on a single site, multi-site or portfolio basis.

#### Cover under these policies is typically for:

- Onsite and offsite statutory clean-up costs (clean-up to the extent required by environmental laws) including emergency or mitigation costs and property restoration costs.
- Natural resource or biodiversity damage (liabilities arising under the *Environmental Damage Prevention and Remediation Regulations 2009* or equivalent national laws).
- Third-party claims for bodily injury and property damage.
- Investigation and legal defence costs where these result from either new pollution conditions or both new and pre-existing (historic) pollution conditions, depending on the coverage option selected.

There is the option under some policies to include cover for transportation liability. This covers clean-up costs, third-party bodily injury and property damage resulting from pollution conditions caused by products or waste during transportation.

Policies can also potentially be extended to cover business interruption loss resulting directly from a pollution condition. The definition of 'insured' under these policies normally includes directors, partners and employees of the insured. Other interested parties can be included as additional insureds.

#### What information do I need to explore pollution cover?

Specific environmental liability cover can usually be placed based on existing environmental and risk assessment reports and other relevant information you already hold. All available existing environmental reports and other material information must be disclosed.

In consideration of cover and premium costs the insurance underwriter will look at the quality of the emergency response, health and safety plans and any relevant accreditations the insured may have. The insurer will want to see some form of spill response or emergency incident response plan and a claims record or compliant reporting process.

One of our clients unfortunately received odour complaints from the storage and processing of material, resulting in offsite claims by residents. The client had acquired a specialist environmental insurance liability policy.

The insurer had confidence in the operator's risk assessments and procedures and settled the claims. Cover was reinstated on installation of a corrective management plan.

By a combination of effective ongoing risk management strategies and the correct insurance cover, organisations can protect themselves from potential pollution and other liabilities. ●

#### References

<sup>1</sup>[hse.gov.uk/statistics/fatals](https://www.hse.gov.uk/statistics/fatals)

<sup>2</sup>[hse.gov.uk/research/rrpdf/rr1128.pdf](https://www.hse.gov.uk/research/rrpdf/rr1128.pdf)

<sup>3</sup>[hse.gov.uk/research/rrpdf/rr1057.pdf](https://www.hse.gov.uk/research/rrpdf/rr1057.pdf)

<sup>4</sup>[hse.gov.uk/leadership](https://www.hse.gov.uk/leadership)

<sup>5</sup>[hse.gov.uk/waste/](https://www.hse.gov.uk/waste/)

<sup>6</sup>[hse.gov.uk/aboutus/strategiesandplans/sector-strategies/waste-and-recycling.htm](https://www.hse.gov.uk/aboutus/strategiesandplans/sector-strategies/waste-and-recycling.htm)

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