

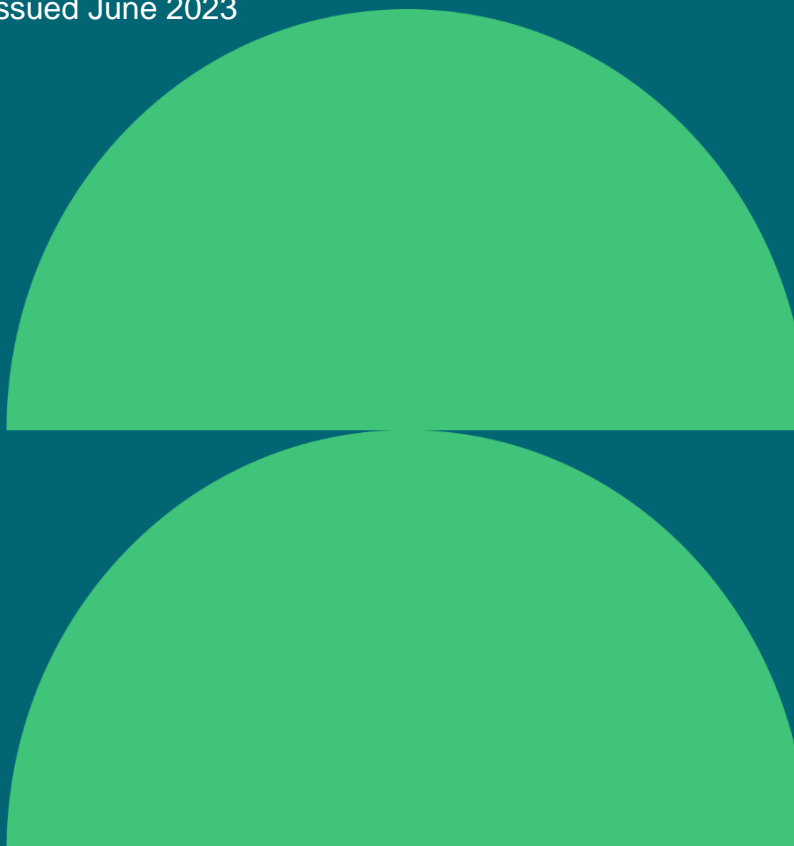


For the future of our environment

SEPA Guidance

Financial Provision for Non-Landfill Waste Management Activities

SEPA Guidance | WST-G-031 | version 5 | issued June 2023



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contactscotland-bsl.org

The Scottish Environment Protection Agency (“SEPA”) requires to assess whether applicants for, and holders of, certain licences, or permits under specified legislation are fit and proper persons. This legislation includes the Pollution Prevention and Control (Scotland) Regulations 2012 (in respect of specified waste management activities) and the Environmental Protection Act 1990. Financial provision is part of this assessment.

This guidance note describes what is required from applicants. It is relevant if you are applying for a new waste management licence or pollution prevention and control permit for a specified waste management activity (such licences and permits are together referred to as ‘authorisation’ in this guidance), or for the modification or transfer of such an authorisation, but may also be relevant in other circumstances during the lifetime of an authorisation.

This guidance is only applicable to authorisations for non-landfill activities. Guidance for landfill activities is available [here](#).

Legal requirements for financial provision

Section 74(3)(c) of the Environmental Protection Act 1990 says that a person is not a fit and proper person to hold a waste management licence if it appears to SEPA that that person “*has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the licence*”.

Section 18(4)(b) of the Pollution Prevention and Control (Scotland) Regulations 2012 says that a person is not a fit and proper person to hold a permit in respect of a specified waste management activity if it appears to SEPA that that person “*has not made adequate financial provision to ensure that obligations arising from the permit in relation to that activity are met and any closure procedures required by the permit in relation to that activity are followed*”.

For non-landfill waste management authorisations applications SEPA will accept that applicants are “in a position to make financial provision” if they can demonstrate that they have sufficient financial means to fund the requirements of the authorisation, including those arising on closure.

A. How does an applicant demonstrate adequate financial provision?

(1) Generally SEPA will look for a demonstration of an applicant's financial standing. This may be demonstrated in either of the following ways:

a) Credit Reference Check

SEPA will carry out a credit reference check to assess whether an applicant is of sufficient financial standing. There may be occasions where the applicant may have to grant SEPA written authorisation to carry out such checks.

b) Provision of Alternative Evidence

Where a Credit Reference Check has failed (or SEPA considers it is not appropriate, for example where the applicant is a relatively new company) an applicant may provide recent evidence (not more than 3 months old) from a third party as to its financial standing.

It must be credible evidence stating that the applicant is in a position to access adequate funds. This could include:

- A Statement of Account addressed to the applicant from a Financial Institution;
- A letter to the Applicant from a Financial Institution showing that the applicant has sufficient overdraft or loan facilities.

(2) There may be occasions where SEPA considers that additional evidence of financial standing or an alternative means of financial provision is required: this may be where the evidence submitted by the applicant is not satisfactory or it may be for specific reasons related to the site, the type of activity or the applicant. It will be for the applicant to propose alternative means of financial provision (for example a guarantee from a parent company, bank or other third party or ring-fenced funds) and for SEPA to then consider whether that proposal is acceptable.

It should always be remembered that ultimately the responsibility and onus lies with the applicant to satisfy SEPA as to their financial standing.

B. How much financial provision?

For non-landfill sites, we have devised a formula to assist the applicant in calculating the amount of any potential financial obligation concerned. This is based on the maximum quantity of wastes that you can keep, store or treat at your site, and the haulage costs associated with their removal, as shown in the table below. SEPA has also produced a spreadsheet by EWC code which can be used to calculate a total financial provision using the multipliers below (available from wastepermitting@sepa.org.uk).

Indicative costs for site clearance (figures include transport costs)

Waste storage/treatment activity	Multiplier per tonne -including transport (£'s)
Non-hazardous waste (e.g. Commercial & Industrial Waste)	£45
Construction & demolition waste (unless in a category below)	£40
Tyres - baled	£105
Tyres - loose	£215
Green waste	£45
Non-hazardous liquids	£150
Hazardous soils	£160
Batteries	£80
WEEE	£250
Asbestos	£180
Other solid hazardous (e.g. contaminated drums)	£550
Oil	£90
Other liquid hazardous	£700
Inert waste	£25
Metal	£20
Glass	£20

The above figures are indicative only. There may be specific circumstances related to the site, the activity or the applicant which will merit a different/increased multiplier being used. There is a £500 minimum financial provision that must be demonstrated. SEPA may adjust this figure from time to time.

C. Does it apply to all applications?

Nearly all. The financial provision test is relevant for applications for new authorisations, most applications for modifications of an authorisation where the obligations have increased (e.g. changing waste types, or increasing volumes of waste on site) and on an application for the transfer of an authorisation.

Some waste management licences for recovery operations are designed for material to be left in-situ and therefore financial provision in these instances will not be based on site clearance but rather on the projected cost of restoration.

D. Will an authorisation holder have to continue to provide evidence?

Generally, the financial provision test will only be relevant at the application stage, and SEPA would not check an authorisation holder's financial standing on an ongoing basis. However, where specific circumstances related to the site, the activity or the authorisation holder make it appropriate, SEPA may undertake ongoing financial provision checks and may require the authorisation holder to make additional or alternative financial provision.

Limitations

This guidance applies only in Scotland. The Guidance may be subject to periodical review and be changed or withdrawn in light of technological developments, regulatory or legislative changes, future government guidance or experience of its use. SEPA reserves its discretion to depart from the guidance and to take appropriate action to avoid any risk of pollution or harm to human health or the environment or where specific circumstances related to the site, the activity or the applicant or authorisation holder make it appropriate to do so.