



For the future of our environment

Reuse Activities and Waste Regulation

March 2024

Who is this guidance for?

This guidance is intended for:

- anyone who undertakes activities which involves the reuse of products within Scotland – for instance local authorities, charity shops, community reuse organisations, remanufacturing companies, repair shops and services, logistics companies that transport used goods, retailers that take back used goods, online reuse organisations, auction houses, pawnbroker etc.;
- SEPA staff who advise and regulate such reuse activities.

What is the aim of the guidance?

The guidance aims to provide clarity on when waste legislation applies to reuse activities and what you must do to comply.

When activities do fall within the scope of waste legislation, SEPA will act to protect the environment, maintain a level playing field. However, because we recognise the benefits of reuse to the environment, the economy and society in general, SEPA wants to make compliance as straightforward as possible.

We also want to ensure that SEPA staff are able to provide clear and consistent advice on which activities fall within the scope of waste legislation, and the implications of this.

What is the scope of the guidance?

This guidance applies to the reuse of **products** or **components of products**. It does not apply to **materials** for recycling, for example recovered paper, scrap metal, glass cullet, soil, rubble etc.

Only products and components of products that are being **reused for their original purpose** can be considered to be 'reused' or 'prepared for reuse'¹. If the items are being used for a different purpose, this is 'recycling', and not within the scope of this guidance document. The Waste Framework Directive definitions of these terms are provided at the end of the guidance note.

SEPA reserves the right to depart from this guidance and to take appropriate action to prevent harm to human health or pollution of the environment.

What do we mean by reuse?

Reuse means 'any operation by which products or components **that are not waste** are used again for the same purpose for which they were conceived' (Waste Framework Directive 2008)

If products become waste, then they can be prepared for reuse – 'checking, cleaning or repairing recovery operations by which products or components of products that have become waste are prepared so that they can be reused without any other pre-processing'. Preparation for reuse is a waste management activity and waste controls apply².

This document gives guidance on whether a product that is destined for reuse is a waste or a non-waste. Annex 1 provides full legal definitions and Annex 2 provides a flowchart to guide the decision. Annex 3 considers waste which may contain Persistent Organic Pollutants (POPs)

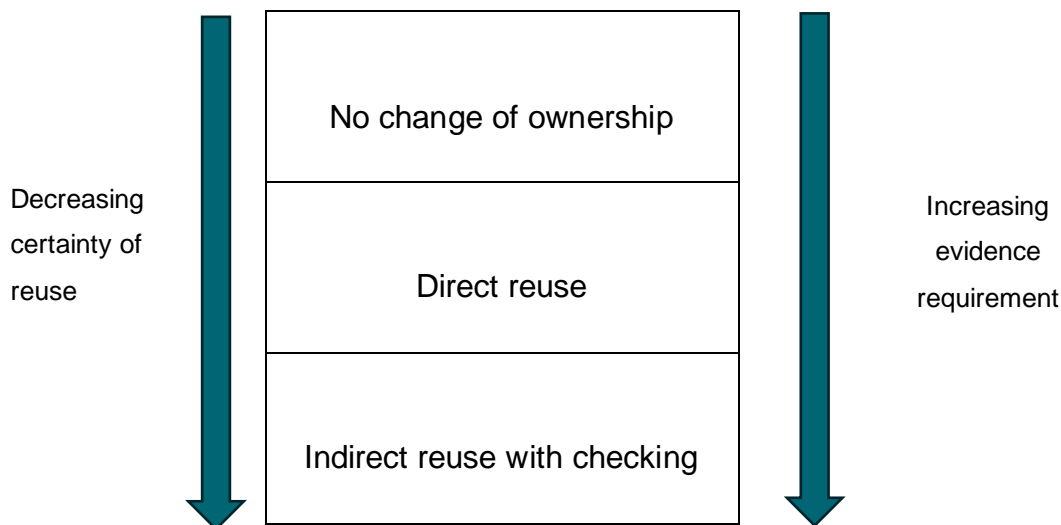
¹ This is a requirement of the Waste Framework Directive, in order to protect the environment from risks which may occur as a result of using a product for a purpose it wasn't designed for. 'Upcycling' and 'repurposing' activities can usually be carried out under an exemption from Waste Management Licensing.

² Just because an activity involves checking cleaning or repairing does not mean that the item is waste.

Section 1: I undertake an activity which involves the reuse of products – does waste regulation apply to me?

The key question is whether there is **certainty that the item will actually be reused** even if some repair or refurbishment is required. Case law has ruled that reuse must be a certainty, not a mere possibility, for an item to be classed as non-waste³⁴.

In some situations, there is clear certainty of reuse, and so the level of proof required is low, however in other situations there is a degree of doubt, and the level of proof required will be higher (see fig 1). If there is no certainty, then SEPA will regard the item as waste, until it has been fully prepared and made available for reuse.



³ [Shell C-241/12 and C-242/12](#)

⁴ In SEPA's view the intent of a holder is not sufficient to give certainty that the item will be reused, but information from the holder (eg on functionality) may form part of the evidence required to determine certainty of reuse.

No change of ownership

Where there is no change of ownership of the item, and there is certainty that the item will be reused for its original purpose, then the item has not been discarded, and is not waste.

For example:

- Repair services (including those carried out under warranty), and the item is returned to its original owner to be reused for its original purpose.
- Servicing / maintenance, and the item is returned to its original owner to be reused for its original purpose.
- Refit / Overhaul / Refurbishment (eg of electronics, trains, ships, oilrigs etc), and the item is returned to its original owner to be reused for its original purpose.

Similarly, where there are multiple users of an item, but the ownership doesn't change, and there is certainty that the item will be reused for its original purpose, then the item has not been discarded, and is not waste.

Notes

(1) These activities may themselves generate waste – for instance repair may involve removing a faulty / worn part, and replacement with a new one. Waste management controls apply to that waste material as soon as the waste arises.

(2) Items stored with no certainty of future use are likely to be regarded as waste, even if ownership remains the same.

For example:

- Hire (eg of equipment; clothes; tools etc)
- Lease (eg cars, office equipment, carpets etc)
- Reuse systems (eg gas bottles, vegetable crates, reusable transit packaging, refillable drums) – where items are still actively used in the system.

Direct reuse

Where transfer of ownership is direct from one user to another user and there is certainty that the item will be reused for its original purpose, this will usually indicate that there is certainty of reuse (because somebody wants the item), and waste management controls would not apply.

For example:

- Giving or selling an item to a friend / colleague, and there is certainty it will be reused for its original purpose
- Buying an item at a car boot sale, for your own use, for its original purpose
- Sale of used items from one business user directly to another business user which will use it for its original purpose

Direct reuse includes situations where the exchange of items is facilitated by a third party, but the transfer of ownership is direct.

For example:

- Classified advertisements, where there is certainty the new owner will use the item for its original purpose
- Online exchange (eg E-bay; gumtree, freecycle, etc), where there is certainty the new owner will use the item for its original purpose.
- Physical exchange sites (eg auction houses), where there is certainty the new owner will use the item for its original purpose.

This includes items that require repair prior to reuse for their original purpose. However, if the new user subsequently discards the item, or sends it for recycling rather than reuse, then waste controls would apply.

Indirect reuse with checking

Where ownership transfers to a third party before passing on to its new owner, this introduces a degree of uncertainty over whether the item will actually be reused. However, if the items are

checked prior to, or at the point of, acceptance⁵, and those checks are sufficient to provide certainty that the item will in fact be reused, those items will not be regarded as waste and waste management controls would not apply.

For example:

- Second hand shops – eg. books, antiques, architectural salvage, where checks are undertaken to give certainty that the items will be reused for their original purpose
- Pawnbroker / cashconverter – where checks are undertaken to give certainty that the items will be reused for their original purpose
- Charity shops – where checks are undertaken to give certainty that the items will be reused for their original purpose
- Remanufacturer – where checks are undertaken to give certainty that the items will be reused for their original purpose
- Trade in (of used items for cash / vouchers / points or as part exchange) – where checks are undertaken to give certainty that the items will be reused for their original purpose
- Return to supplier of unused items (eg under sale or return agreements) – where checks are undertaken to give certainty that the items will be reused for their original purpose
- Third sector organisation taking items from reuse containers at a household waste recycling centre – where checks are undertaken to give certainty that the items will be reused for their original purpose
- House clearance, where checks are undertaken to give certainty of reuse for their original purpose. Items that fail the checks are waste. Waste and non waste items can travel in the same vehicle, provided that they are clearly identified, are protected during transport and are separated when they reach their end destination.

The types of checks will vary for different product groups – but would generally cover:

- Condition – whether the item is an acceptable condition for reuse

⁵ If the checks are undertaken at the third party's premises, then items are considered to be waste until they have been checked, because until that point there is no certainty that they will be reused.

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- Functionality and requirement for repair – whether the product is fully functional; if repair is required then this must be economically viable
 - Technical requirements – whether the product meets all technical requirements for its sale and subsequent use.
 - Marketability – whether a market exists for the product.

SEPA would require systems in place to give assurance that the product will actually be reused. Data on actual reuse rates should be kept to demonstrate that checks are effectively identifying reusable items.

If an item is checked and fails the certainty of reuse checks, but certain components within it pass the tests, then the item is a mix of waste and non-waste and must be classed as waste until the components are removed and made available for reuse.

Indirect reuse with no prior check

If a third party accepts items with no prior checks to give certainty of reuse, SEPA considers the items to be waste and therefore subject to waste management controls. For example, if bulk deliveries of used clothing, electrical items or furniture are accepted without sufficient prior checking to provide certainty of reuse for each item in the load, then both parties must comply with their Duty of Care obligations and the recipient must have the appropriate waste management authorisation.

For example:

- Charities accepting bulk donations of used items (eg textile collections from bring sites)
- Managing items from house clearances where everything needs to be removed and no checks are made
- Clearing whole offices of IT equipment including items which cannot be repaired.
- Shops accepting used items from members of the public, with no checks.

Where a Household Waste Recycling Centre (HWRC) accepts items for reuse, it is acceptable for the checks to be undertaken *after* the items are deposited, provided that:

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- They are deposited in an area of the site which is clearly signed for reuse
 - Information is available on what is / is not acceptable in a reuse area
 - The items are protected from damage
 - The checks occur on the same site
 - Any items that fail checks are moved immediately out of the reuse area to the appropriate recycling / disposal area of the site.

End of Waste

Once waste items have been prepared for reuse and made available for resale / reuse they are no longer considered to be waste.

For example:

- Activities salvaging parts – once checked and made available for sale for its original purpose
- Items sorted from bulk loads – once checked and made available for sale for its original purpose

These items may become waste again if there is no market demand for them and they are discarded.

The exception to this is items that contain Persistent Organic Pollutants (POPs). If POPs are present in a waste item, above threshold amounts, the item must be treated so the POPs are destroyed or irreversibly transformed, it cannot become a non-waste product. Please see Annex 3 for more information.

Protection of items for reuse

All items destined for reuse must be adequately protected during transit and storage - any failure to do so will reduce the certainty that the items can be reused and will result in their classification as a waste.

Section 2: Waste legislation applies to me – how do I comply?

If you are handling waste, you must comply with your duty of care obligations. Please see the statutory [Duty of Care - Code of Practice](#) for further information. These duties include a requirement to properly store waste, and only transfer it to someone authorised to handle it. You can check whether your contractor is registered [here](#). When waste is transferred it must be accompanied by a waste transfer note, which properly describes the waste, to ensure it can be managed safely and without harm to the environment.

If you are transporting waste in the course of your business, you must be registered as a professional collector and transporter of waste. If you use someone else to carry your waste, they must be a registered waste carrier. Please see [here](#) for further information.

If waste is [classified as special](#) (ie hazardous), then any transfer of that waste must be accompanied by a Special Waste Consignment Note, which costs £15. Please see [SEPA guidance on special waste](#).

If a waste item contains Persistent Organic Pollutants (POPs) above threshold limits, they must be destroyed or irreversibly transformed to remove them from circulation and prevent harm to the environment or human health. These wastes cannot be prepared for reuse. Please see Annex 3 for more information.

If you are carrying out activities to prepare a waste for reuse, in most circumstances you do not need a waste management licence but can carry out these activities as an exempt activity. These exempt activities must be registered with SEPA, and relevant conditions must be complied with. You can see full details of exempt activities [here](#).

You can register the following exempt activities [on-line](#) for free:

Paragraph	Activity
4	Cleaning, washing, spraying or coating of waste packaging and containers
11	Baling, sorting, shredding etc of specified wastes

Paragraph	Activity
14	The manufacture of finished goods and repair / refurbishment of waste goods
15	Beneficial use of waste without further treatment
17	Storage of specified wastes in a secure place
20	Cleaning waste textiles for recovery
48	The storage of WEEE pending recovery elsewhere

You must pay a fee to register certain other exempt activities, due to the nature of the materials. Paper forms can be downloaded [here](#).

Paragraph	Activity
45	The recovery of scrap metal or the dismantling of motor vehicles
47	The repair and/or refurbishment of WEEE

If you are storing waste at the place of production, you do not need to register the exempt activity but will still need to comply with your duty of care obligations.

If your activities are outwith the scope of any of the exempt activities, you will require a waste management licence. Guidance on Waste Management Licensing is available [here](#).

Please note that the system of waste management licensing and exempt activities will be changing with the introduction of the new [environmental permitting regime](#).

Where do I get further information?

Further guidance is available on the [SEPA website](#), or via [NETREGS](#).

If you have any queries, you can contact SEPA on 03000 99 66 99, or by e-mail [here](#).

Annex 1 – Legal definitions

The below definitions are given in the European Waste Framework Directive 2008:

'Reuse' means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived

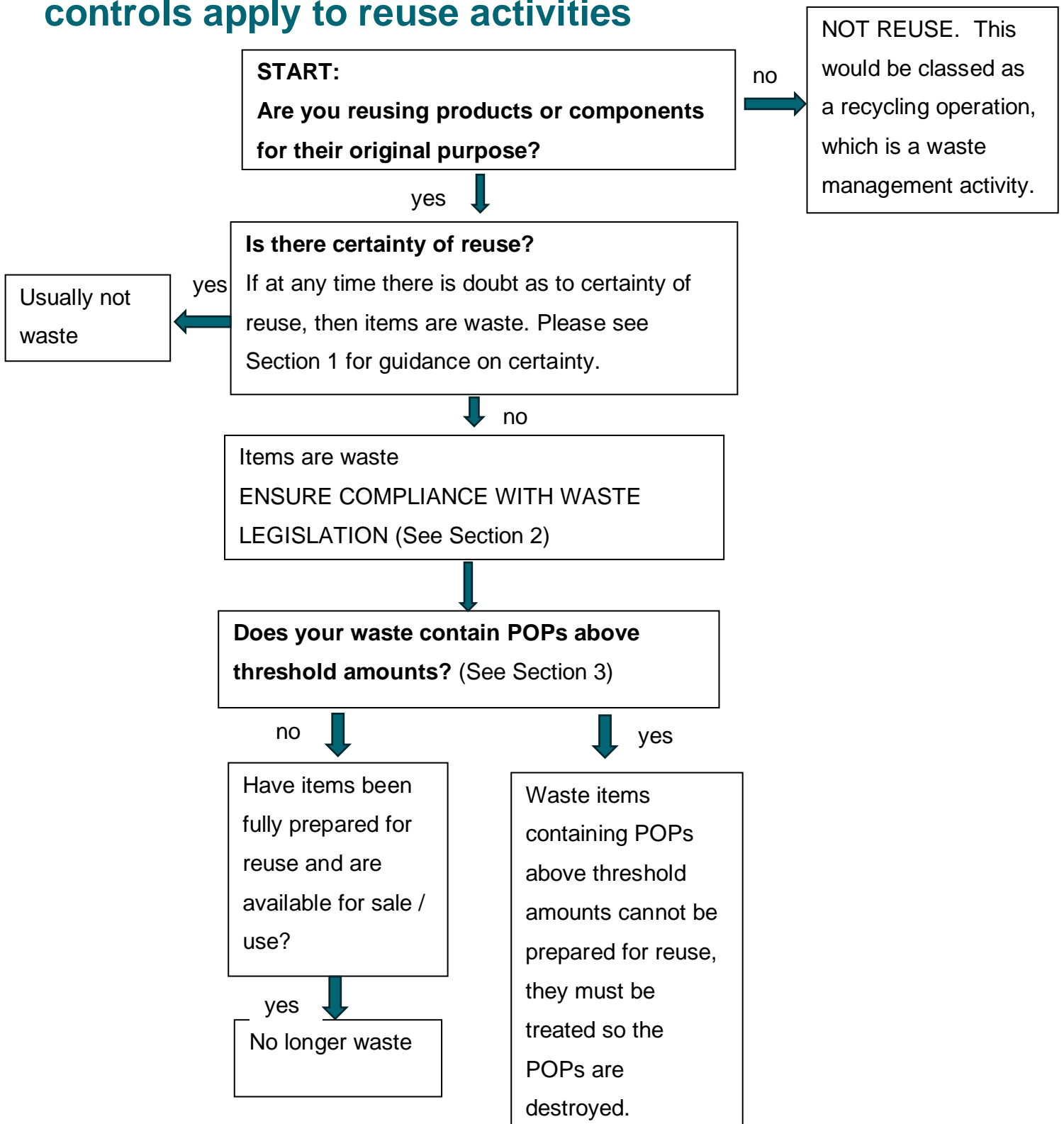
'Preparation for reuse' means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be reused without any other pre-processing

'Recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations

'Waste' means any substance or object which the holder discards or intends or is required to discard

SEPA has produced [guidance](#) to help decide whether something is waste or not. The European Commission has also produced [guidance](#) on interpretation of the key provisions in the Waste Framework Directive.

Annex 2 – Flowchart to help determine when waste controls apply to reuse activities



Annex 3 – Wastes which may contain Persistent Organic Pollutants – can I reuse them?

Persistent Organic Pollutants (POPs) present a long lasting and global risk to the environment and human health. They are found in a variety of products including electrical and electronic equipment, and upholstered domestic seating. The UK is a signatory to the Stockholm Convention which requires that wastes containing POPs above threshold levels should be disposed of in such a way that the POP content is destroyed or irreversibly transformed.

The means that waste items containing POPs above threshold limits cannot be prepared for reuse, recycled or landfilled.

Which product groups are we talking about?

The following products may contain POPs above threshold limits:

Product group	Examples	Which POPs	Thresholds	Date use ceased
WEEE ⁶	Casings Cables Printed circuit boards; CRT displays Flat panel displays Small mixed WEEE	PBDEs (TetraBDE, pentaBDE, hexaBDE, heptaBDE, decaBDE)	Sum of concentrations: 1,000 mg per kg	Deca BDE 2008 Other BDE's 2007

⁶ [An assessment of the levels of persistent organic pollutants \(POPs\) in waste electronic and electrical equipment in England and Wales \(icer.org.uk\)](http://icer.org.uk)

Waste Upholstered domestic seating (WUDS)	Sofa	Deca BDE	1,000 mg per kg	<u>DecaBDE</u>
	Armchair	HBCDD		UK industry
	Padded stool			began voluntary
	Padded dining chair			phaseout in 2007;
	Sofa bed			banned from 2019
	Any 'domestic-like' items from a commercial setting.			<u>HBCDD</u>
				UK industry phased out between 2012-16; ban from 2017

Please note that this list of products may expand as evidence emerges for other products, the list of POPs in the Stockholm Convention expands, and threshold limits are reduced.

Step 1: Is your item a waste item?

The Stockholm Convention only requires waste items to be destroyed. If the item you are handling is not classed as waste, then there is no requirement to destroy. If there is certainty of reuse for an item, generally that item is not considered to be waste.

You can increase certainty of reuse by carrying out the following checks on an item, prior to accepting it:

- Condition of the item
- Requirement for repair
- Meeting conditions for sale
- Marketability of the item

If the item passes these checks, generally it is not considered to be waste, and can be reused. Please remember that the items you are handling, even if not waste, may contain POPs – wear appropriate PPE and take steps to avoid the release of the POPs. If the item fails the checks, it should be considered to be waste; and if it also contains POPs above threshold amounts then it must be treated so that the POPs are destroyed or irreversibly transformed. There are also controls

in place regarding segregation of POPs waste from other wastes, and how the waste is managed through its journey to prevent release of POPs. Please see separate SEPA guidance on [WEEE](#) and [Waste Upholstered Domestic Seating](#).

Casestudy: Upholstered Domestic Seating

If a householder doesn't want an item of upholstered seating, they have various options:

- a) Give or sell the item to a friend or through an online marketplace. In these situations, because there is someone who wants the item, the item is NOT WASTE.
- b) Arrange for the item to be collected (by the local authority, a charity shop, a reuse organisation or through retailer takeback schemes).
 - If the party collecting the waste arranges for checks on the items before they leave the premises, then these items are NOT WASTE, because there is some certainty of reuse.
 - However, if the party collecting the waste does not do any checks, the items ARE WASTE, because there is no certainty that they will be reused.
 - Waste and non-waste items can be collected in the same vehicle, provided they are clearly identified, are transported carefully so that contamination does not occur, and are separated at the destination location.
- c) Take the item to a Household Waste Recycling Centre
 - If the item is deposited in a dedicated reuse area, the item is NOT WASTE (unless it fails any checks for reusability)
 - If the item is deposited in a recycling/ disposal area, the item IS WASTE
- d) Take the item to another location eg reuse / charity / second hand shop
 - If the items are checked when they arrive, then they are NOT WASTE
 - If the items are not checked, then they ARE WASTE

Only non-waste upholstered domestic seating can be reused. Waste upholstered domestic seating (WUDS) cannot be prepared for reuse (unless evidence is available that POPs content is below threshold, see below) – it must be treated so that the POPs content is destroyed or irreversibly transformed.

Step 2: Is it likely that the waste item contains POPs above threshold levels?

Waste items can only be prepared for reuse if they contain POPs below threshold amounts.

Certain items should be assumed to contain POPs above threshold amounts, unless evidence is available to the contrary – eg upholstered domestic seating, printed circuit boards, LCD displays.

In recent years, some manufacturers label their products as low / no POPs. Where this information is not available, there are two options to check presence of POPs:

a) Testing of items to ascertain levels of POPs

It may be possible to test items to determine the levels of POPs, for instance, through use of a handheld X-Ray Fluorescence (XRF) device, or laboratory analysis in a gas spectrometer. These analyses are costly, so will probably only be possible if large numbers of items are being tested.

Please contact SEPA if you are considering using this approach – SEPA must be satisfied that the sampling and analysis methodologies proposed are effective at identifying presence of POPs.

Further information is available in the following reports:

- [Waste Classification Technical Guidance WM3](#)
- [Basel Convention Technical Guidelines](#)
- [An assessment of the levels of persistent organic pollutants \(POPs\) in waste electronic and electrical equipment in England and Wales \(icer.org.uk\)](#)
- [An assessment of persistent organic pollutants \(POPs\) in waste domestic seating \(circularonline.co.uk\)](#)

b) Indicators of POPs below threshold amounts

It may be possible to use an easily identifiable feature as an indicator of whether POPs are present in an item above threshold amounts.

For instance, the material that the item is made of, its method of construction, or its date of manufacture.

If an item is manufactured after a POP was banned, then the risk of that specific POP being present is reduced. Similarly for antique items – if they were manufactured before POPs were in general use, then the risk of POPs being present is reduced.

Casestudy: WEEE – Using date of manufacture as an indicator

The [RoHS 2 Directive](#) banned PBDEs in electronic and electrical equipment (EEE) put on the market after 1st January 2007, with an exemption for decaBDE until July 2008. Therefore, any WEEE product manufactured from 1 January 2009 can be prepared for reuse in the UK. This approach reduces but does not remove the risk of POPs being present, so is only allowed for reuse within the UK.

NOTE: This does not require you to find an *exact* date of manufacture, as many products do not carry that information. Often the age-since-manufacture can be ascertained from looking at an item, or from looking up a model number. Only if this indicates date of manufacture close to date of restriction would further investigation into the exact age of the item be necessary.

You should keep documentary evidence of the checks made on each item.

As more evidence emerges on which types of products may contain POPs above threshold amounts, this guidance will be updated with further case studies. If you would like to propose a product characteristic that could be used to identify low/no POPs items, then please get in touch: nationalwaste@sepa.org.uk.

For information on accessing this document in an alternative format or language, please contact SEPA by emailing equalities@sepa.org.uk

If you are a user of British Sign Language (BSL), the Contact Scotland BSL service gives you access to an online interpreter, enabling you to communicate with us using sign language. contactscotland-bsl.org