

## **Skip Licence – Guidance**

### **1.0 Introduction**

This guidance sets out the requirements relating to management of applications for permission to place a skip (or equivalent waste container) on the public highway. It explains why there is a need to control and manage items placed on the highway, the issues to be considered and the conditions that apply when a licence is granted. The guidance has been defined in order to increase clarity and consistency across the London Borough of Southwark in the management of skips placed on the public highway.

Southwark Council has powers with respect to skips under S137 and S139 of the Highways Act 1980, which grants Southwark Council as the highway authority control of builders skips by requiring that permission be obtained from the highway authority before the skip is placed on the highway. Skip operators must apply to Southwark's Highway Licensing Team who grant permission on behalf of Southwark Council in the form of a recorded licence (or permit) for each skip location. Conditions may be specified for each skip as appropriate on the licence; these may include exact location, time windows for delivery and collection, limited duration on site due to other planned works etc. Skips may not be placed without a licence and S140 of the Highways Act gives us the power to remove skips from the highway, wherever there is a need to do so.

### **2.0 General Requirements and Considerations**

Certain requirements must be met by skip operators in applications, separately from considering the safety of the proposed location and these are detailed in the licence for the applicant's attention. These include the need for £5 million public liability insurance, the need to indemnify Southwark Council against all claims, provision of a clearly marked skip (high visibility markings and owner identification) and payment of licence fees (£66.00 per month).

The approval process will include ensuring the skip does not pose a hazard to footway users, that there is adequate width for the anticipated type of traffic (2 way, unless traffic management is appropriate and reasonable, or if the street is one way) and consider any possibility of obstruction, impaired visibility, clash with other street activities, general risk assessment for the site and access for emergency vehicles. Due to the volume of skips and Southwark Council's 'Network Management Duty' under the Traffic Management Act 2004, placing of skips is being considered in similar terms to a temporary works site when co-ordinating activities on the highway and this can only

serve to improve Southwark Council's performance as a Highway Authority. The majority of skips are placed for a short duration – days or one to two weeks, and prompt removal from site is to be actively encouraged. Where skips cannot be placed safely as requested, an alternative site or date may be offered or the application refused.

A licence must be obtained before the skip is placed on site and will always include general conditions such as skip identification and marking (Building Skips (Marking) Regulations 1984), permitted and excluded types of waste and its transfer (Environmental Protection (Duty of Care) Regulations 1991), load level and guarding and lighting of skip. It will also include any special conditions referring to that site and/or the skip occupation time(s) for that site. Maintaining a valid licence is dependent on abiding by all set conditions.

### **3.0 Education, Monitoring and Enforcement**

The public are not always fully aware of the need to use reputable skip companies and the need for licensing skips on the highway. Improving their understanding and helping them to make an informed decision on their supplier will help to raise standards of operators placing skips on the highway. By working with operators too, increasing their awareness of highway issues and encouraging prompt removal, Southwark Council can reduce potential hazards and causes of congestion and disruption.

All licences are recorded for monitoring and reference which assists with the management of enquiries or complaints and processing of renewal applications. Licences are obtained by the skip operator, and do not rely on householder knowledge of this requirement. This allows the Council further opportunities to increase compliance across Southwark's road network, by working closer with operators and aiming to increase their understanding of how skips affect highway safety and users of the highway.

Any complaints received regarding skips placed on the highway will be investigated and resolved with the operator (where known). By involving operators more in future in enquiries and complaints, improving their awareness of highway issues and feeding back on their performance as an operator on the highway, the aim is to raise standards of operators placing skips on the highway, reduce times on site and help to reduce fly tipping of waste on the highway.

Where offences are found upon inspection with regards to licence conditions, adherence to legal skip requirements or conditions set by Southwark Council, legal action resulting in prosecution may be pursued.

Records will be kept of offending operators to show where Southwark Council needs to concentrate on repeat offenders, where further action is necessary and more positively where direct contact has had a desirable effect.

Random inspections will be carried out by local inspectors at regular intervals, checking skips in the area for valid licences and compliance. Operators will be contacted directly, usually by phone and licences / compliance requested straight away. This may include repositioning or removing the skip as appropriate.

Skips without licence -If any skip is placed upon the highway without a licence, upon identification, the operator will be required to immediately apply for a licence and pay the respective charges. This will include for the time already spent on the highway.

Local investigation will be carried out as necessary finding out from local residents (or in some cases from identifying skip contents) the hirer and from them, the owner of the skip where this is not known. On occasion where the operator cannot be identified, the skip will be removed by Southwark Council.

Repeat offenders -Where there are witnessed repeated offences, Southwark Council reserves the right to refuse an operator permission to place skips on the highway. Unless there is an immediate urgent problem, the applicant will be served with up to two written notices/warnings to comply. A failure to still comply will result in a third communication indicating that action will be taken. Where individual circumstances dictate, we can remove offending skips and recharge costs to operators where known. In exceptional circumstances, where we have a persistent offender operating in Southwark, we have the option to prosecute the skip operator.

#### **4.0 Skip Licence (Process) Review**

Effective management of skips on the highway is dependent on a formal licensing arrangement and Southwark Council needs to continue with the licensing system currently in use, developing and improving processes as needs arise.

Education of public and skip operators is key to improving the management of skips on the highway, improved levels of applications for licences and reduced levels of crime, especially waste related like fly tipping, and just as importantly, perception of crime.

The combined approach for skips of education and feedback, licensing and enforcement, will help us raise safety standards on the highway and improve highway availability. The licence document, conditions, processes and working practices will be subject to regular review and update in pursuit of this aim.

## **5.0 Legislation**

Legislation used in producing Southwark Councils builder's skip licence includes:

- Traffic Management Act 2004
- New Roads and Street Works Act 1991
- Highway's Act 1980
- London Local Authorities and London Transport Act 2003
- The Builder's Skips (Markings) Regulations 1984
- Traffic Signs Manual, Chapter 8, Appendix 3

It should be noted that this is not a comprehensive list and that it is the operator's responsibility to ensure full compliance with all current regulations.

The following are examples of requirements that should be noted by the skip providers.

### **5.1 The Highways Act 1980 states:**

139 Control of builders' skips.

(1) A builders' skip shall not be deposited on a highway without the permission of the highway authority for the highway.

(2) A permission under this section shall be a permission for a person to whom it is granted to deposit, or cause to be deposited, a skip on the highway specified in the permission, and a highway authority may grant such permission either unconditionally or subject to such conditions as may be specified in the permission including, in particular, conditions relating to:

- (a) the siting of the skip;
- (b) its dimensions;
- (c) the manner in which it is to be coated with paint and other material for the purpose of making it immediately visible to oncoming traffic;
- (d) the care and disposal of its contents;
- (e) the manner in which it is to be lighted or guarded;
- (f) its removal at the end of the period of permission.

(3) If a builder's skip is deposited on a highway without a permission granted under this section, the owner of the skip is, subject to subsection (6) below, guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

(4) Where a builder's skip has been deposited on a highway in accordance with a permission granted under this section, the owner of the skip shall ensure —

- (a) that the skip is properly lighted during the hours of darkness and, where regulations made by the Secretary of State under this section require it to be marked in accordance with the regulations (whether with reflecting or fluorescent material or otherwise), that it is so marked;
- (b) that the skip is clearly and indelibly marked with the owner's name and with his telephone number or address;

(c) that the skip is removed as soon as practicable after it has been filled;  
(d) that each of the conditions subject to which that permission was granted is complied with; and, if he fails to do so, he is, subject to subsection (6) below, guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

(5) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(6) In any proceedings for an offence under this section it is a defence, subject to subsection (7) below, for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(7) A person charged with an offence under this section is not, without leave of the court, entitled to rely on the defence provided by subsection (6) above unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(8) Where any person is charged with an offence under any other enactment for failing to secure that a builder's skip which has been deposited on a highway in accordance with a permission granted under this section was properly lighted during the hours of darkness, it is a defence for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(9) Where a person is charged with obstructing, or interrupting any user of, a highway by depositing a builder's skip on it, it is a defence for the person charged to prove that the skip was deposited on it in accordance with a permission granted under this section and either—

(a) that each of the requirements of subsection (4) above had been complied with; or

(b) that the commission of any offence under that subsection was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(10) Nothing in this section is to be taken as authorising the creation of a nuisance or of a danger to users of a highway or as imposing on a highway authority by whom a permission has been granted under this section any liability for any injury, damage or loss resulting from the presence on a highway of the skip to which the permission relates.

(11) In this section, section 140 and section 140A below—

- “builder's skip” means a container designed to be carried on a road vehicle and to be placed on a highway or other land for the storage of builders' materials, or for the removal and disposal of builders' rubble, waste, household and other rubbish or earth;

- “owner”, in relation to a builder’s skip which is the subject of a hiring agreement, being an agreement for a hiring of not less than one month, or a hire purchase agreement, means the person in possession of the skip under that agreement.

## 5.2 Fixed Penalty Notices under the Highways Act 1980 and Local London Authorities Act 2003

The London Local Authorities and Transport for London Act 2003 gave boroughs powers to issue Fixed Penalty Notices (FPNs) in respect of certain offences on the highway. This gives boroughs an additional enforcement tool to tackle a series of public realm issues in a much more efficient and cost-effective manner. These offences pertain mainly to unlawful highway obstructions, particularly unlawful activity involving builders’ skips an unauthorised obstructions.

The following offences are allowed to be enforced by the use of Fixed Penalty Notices.

1. Willful obstruction of highway – Section 137(1)
2. Depositing builder’s skip on highway without permission – Section 139(3)
3. Failure to secure lighting or other marking of builder’s skip – Section 139(4)(a)
4. Failure to secure marking of builder’s skip with name and address – Section 139(4)(b)
5. Failure to secure removal of builder’s skip – Section 139(4)(c)
6. Failure to comply with conditions of permission – Section 139(4)(d)
7. Failure to remove or reposition builder’s skip – Section 140(3)

If the London Borough of Southwark decides that an offence is appropriate for breaking or not complying with one of the above requirements a fixed penalty notice can be issued.

Please note that non-compliance or non-payment of a fixed penalty notice can result in Southwark Council proceeding with prosecution of offender.

## **5.3 Builders skips legislative requirements**

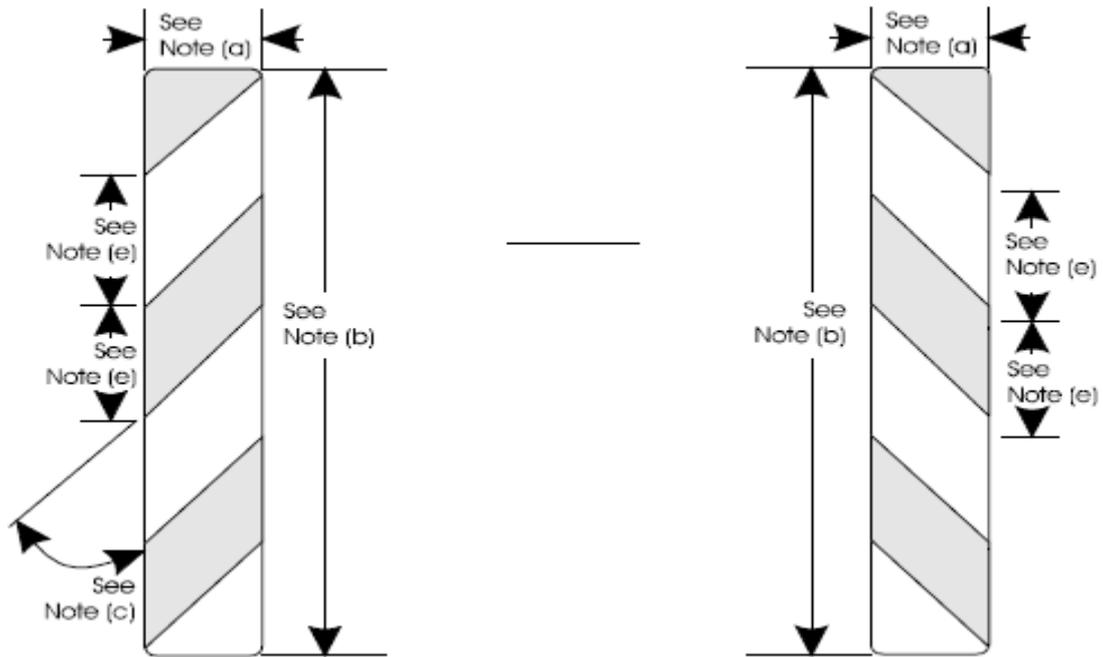
A sample of inspections will be carried out periodically by the Highway Licensing Team in order to assess the compliance of legislative requirements of skips placed on the public highway by skip companies. Where licensed skips are in the opinion of a highway licensing officer to be failing the legal requirements.

Where continuous failure to meet the legal requirements of the Highways Act 1980 or failure to meet the requirements under the Builder’s skips (Markings) regulations are witnessed, a discussion between the London Borough of Southwark and the Skip Company will be required.

It is not the position or wish to withhold licence applications from being issued to skip companies but where it is felt that improvement is not being made in

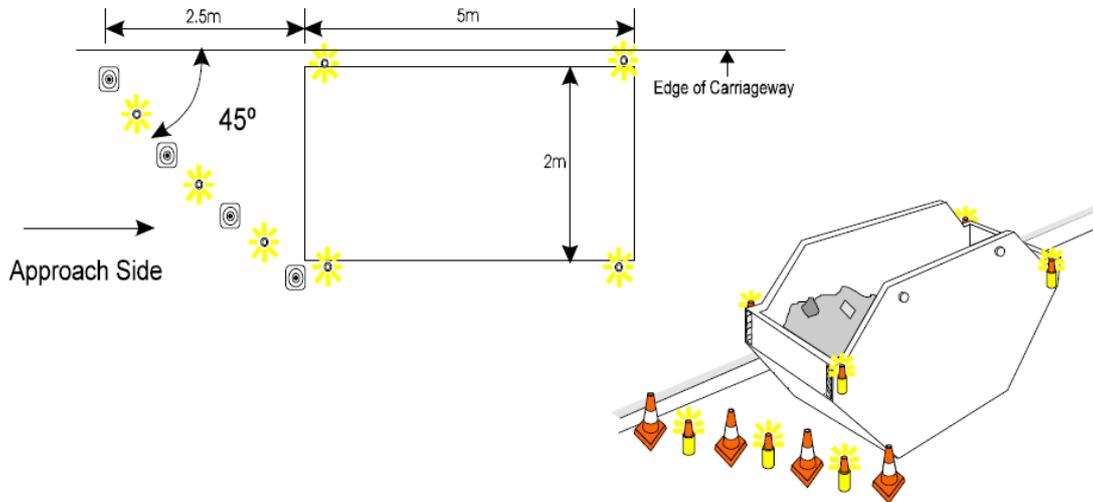
satisfying the legal requirement the London Borough of Southwark may decide to freeze or remove company from Southwark's registered skip companies list.

#### **5.4 Requirements under the The Builders' Skips (Markings) Regulations 1984**



- (a) The width of each half of the markings shall be not less than 140 millimetres nor more than 280 millimetres.
- (b) The length of each half of the marking shall be not less than 350 millimetres nor more than 700 millimetres.
- (c) The angle of each stripe shall be not less than 40 degrees to the vertical nor more than 50 degrees to the vertical.
- (d) Each half of the markings shall have a minimum area of 980 square centimetres.
- (e) The breadth of each stripe shall be not less than 133 millimetres nor more than 147 millimetres.

## Requirements as to Builders Skip's Markings



1. The markings specified in Schedule 1 shall consist of two plates of equal size and the same shape as one another.
2. Each such plate shall comply with the requirements specified in the British Standard Specifications for Rear Marking Plates for Vehicles issued by the British Standards Institution and published on 1st April 1970 under number BS AU152: 1970 and shall be marked as provided in paragraph 5 of that Standard.
3. The two plates comprising the marking shall be securely attached to the end of the builder's skip in such a manner that:
  - (a) each plate is as near to an outer edge of the skip as the construction of the skip allows, so, however, that no part of any plate projects beyond an outer edge of the end of the skip;
  - (b) the innermost edge of each plate is parallel to and the same distance from the vertical plane passing through the longitudinal axis of the skip;
  - (c) the upper edge of each plate is parallel to and the same distance from the upper edge of the end of the skip;
  - (d) no part of either plate is attached to:
    - (i) any lid, or
    - (ii) any door except in a case where a door is the only place to which the plate can possibly or conveniently be fixed; and
  - (e) the upper edge of each plate is:
    - (i) not more than 1.5 metres from the ground, and
    - (ii) not lower than the upper edge of the skip save in so far as this may be necessary on account of the construction of the skip, the provisions of Regulations 4 or the provisions of sub-paragraph (i) above.
4. The stippled areas in the diagram in Schedule 1 shall be of red fluorescent material, and the un-stippled areas in that diagram shall be of yellow reflex reflecting material.

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