

Garden waste collection service Terms and Conditions

Summary of Terms and Conditions

1. In order to participate subscribers must only use the Council supplied 120 litre reusable garden waste bag(s) provided.
2. In order for collections to take place subscribers must present their bag(s) on the allotted day and by the stated time. Bag(s) must be placed at the boundary of the property (not on the highway) and be visible from the kerb, by 7am on the day of collection.
3. This scheme has a non-refundable fee covering garden waste bag(s) emptying for the period specified at the start of the contract ending the following 31 March.
4. During participation in the scheme reusable garden waste bag(s) are to be used only for the storage of green garden waste as described on the Council website www.rbkc.gov.uk/gardenwaste. Contamination of the garden waste by materials other than those specified as acceptable may result in the bag(s) not being collected. Repeat contamination could lead to the withdrawal of your garden waste service.
5. The customer is the owner of reusable garden waste bag(s) and is responsible for maintenance of bag(s) and ensuring they are in a serviceable condition. The Council is not responsible for any loss or damage (other than through the negligence of the servants or agents of the Council).
6. The contract holder is responsible for and shall indemnify the Council and hold the Council harmless against damages, accidents, expenses, claims, demands and direct and indirect losses of any kind which may occur or be occasioned by or in consequence of the participation in this scheme and are not due to any act or default of the services or agents of the Council.
7. **Moving House: If your new address is in Kensington and Chelsea, please take the bag(s) to your new address and register your new address on your online garden waste account at www.rbkc.gov.uk/gardenwaste or call 020 7341 5199:**
8. Garden waste bags are not the property of the Council and can be moved without permission or prior notice. Failure to notify the Council of an address change to a collection subscription may result in your garden waste bag(s) not being collected.
9. **Leaving garden waste bag(s) at your old address:** Garden waste bags are not the property of the Council. Subscription to the garden waste collection service will continue until the following 31 March. New occupiers can subscribe to the service online or by calling 020 7341 5199.

Note: When moving house no refunds will be given for incorrect charging incurred via Direct Debit or other forms of payment due to failure to inform the Council of your move.

THE ROYAL BOROUGH OF KENSINGTON AND
CHELSEA
GARDEN WASTE COLLECTION SERVICE
TERMS & CONDITIONS

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THE COUNCIL TERMS

1. DEFINITIONS

1.1 When the following words with capital letters are used in these Terms, this is what they will mean:

(a) **Application:** means the application for the Goods and/or Services completed using the Council's online system or over the telephone;

(b) **Eligible Property:** means a property that has a front garden or such private space to allow the storage and collection of garden waste jute bags (within the definition of Goods) so as to ensure that the garden waste jute bag(s) are never left on the pavement or the public and/or private highway and cause an obstruction;

(c) **Event Outside the Council's Control:** is defined in Clause 10.

(d) **Goods:** Garden waste jute bag(s) provided to you by the Council in accordance with your Application or as subsequently provided.

(e) **Services:** the garden waste collection services that the Council is providing to you further to your Application;

(f) **Terms:** the terms and conditions set out in this document; and

(g) **The Council: The Royal Borough of Kensington and Chelsea**, 37 Pembroke Road, London, W8 6PW

(h) **Working Day:** means any day save for Saturday, Sunday and a public holiday in England

1.2 When the Council use the words "writing" or "written" in these Terms, this will include e-mail unless The Council say otherwise.

2. THE COUNCIL'S CONTRACT WITH YOU

2.1 These are the terms and conditions on which the Council supplies the Goods and Services to you.

2.2 Please ensure that you read these Terms carefully, and please make sure that you ask the Council to confirm any points to avoid any confusion between you and the Council prior to making an Application.

2.3 The Council can only supply garden waste jute bag(s) which constitute Goods under these Terms to an Eligible Property. It is your responsibility to ensure that your property adheres with this definition prior to entering into and for the duration agreed in your Application.

2.4 The Council consider that these Terms and the Application constitute the whole agreement between you and the Council.

2.5 When you make an Application via the telephone or the Council's online system, the Council is deemed to have immediately accepted your Application and these Terms will become binding on you and the Council.

2.6 These Terms will take priority at all times.

3. CHANGES TO APPLICATION OR TERMS

3.1 The Council may revise these Terms from time to time for any reason including (but not limited to) in the following circumstances:

- (a) changes in how The Council accept payment from you; and
- (b) changes in relevant laws and regulatory requirements;

3.2 If The Council has to revise these Terms under clause 3.1 it will inform you in advance of such changes coming into effect.

4. DELIVERY OF GOODS

4.1 Please note that timescales for delivery will vary depending on the availability of the Goods and your address.

4.2 The Council will deliver the Goods within 5 Working Days of your Application. Occasionally the Council's delivery to you may be affected by an Event Outside Our Control. See clause 10 for the Council's responsibilities when this happens. If the Council are not able to deliver all or some of the Goods at one time due to operational reasons or shortage of stock, the Council will deliver the Goods as soon as practicably possible. The Council will not charge you extra delivery costs for this. The Goods will be your responsibility from the completion of delivery.

4.3 If on arrival it is deemed that your property does not meet the requirements of an Eligible Property the Goods shall not be delivered and you will not be refunded the sum paid on Application for the same.

4.4 Delivery shall be deemed to be completed when the Council deliver the Goods to the Eligible Property named by you when you made the Application.

4.5 In accordance with the Sale of Goods Act 1979 (as amended), you have the right to request the replacement or repair of goods that do not conform. This is subject to the restrictions as set out within the Sale of Goods Act 1979.

4.6 Ownership and risk in the Goods passes on delivery.

5. USE OF THE GOODS & FAULTS

5.1 As a consumer, you have legal rights in relation to Goods that are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.

5.2 The bag(s) (within the meaning of Goods) are provided to you for the purposes of storing garden waste. Contamination of the waste by material other than those specified on The Council website www.rbkc.gov.uk/gardenwaste or those specified as acceptable may result in the cancellation of the Service to you.

5.3 Pursuant to Clause 4.5 ownership in the Goods passes on delivery and as such you will be responsible for maintaining the Goods in a serviceable condition.

6. PROVIDING SERVICES

6.1 The Council will supply the Services to you from the 1st of the calendar month following the date of your Application.

6.2 The Council will make every effort to carry out the Services on the days and at the times notified to you (such information shall be contained on the Council's website). However, there may be delays due to an Event Outside the Council's Control. See clause 10 for the Council responsibilities when an Event Outside the Council's Control occurs.

6.3 The Council shall be under no obligation to provide the Services where you fail to correctly display your bag (s) and/or the contents of the bag(s) is contaminated, in accordance with the guidance contained at www.rbkc.gov.uk/gardenwaste.

6.4 The Council may have to suspend the Services if the Council has to deal with technical problems. The Council will not refund any or all of the payment made by you at the time of your Application except in the circumstances set out in Clause 12.

7. IF THERE IS A PROBLEM WITH THE SERVICES

7.1 In the unlikely event that there is a problem with the Services:

- (a) please contact the Council and tell the Council as soon as reasonably possible; and
- (b) please give the Council a reasonable opportunity to remedy the Service problem.

7.2 For the avoidance of doubt, you must inform the Council in respect of any and each failure to collect a bag. For the avoidance of doubt, if you fail to do so this will impact your ability to cancel the service pursuant to Clause 13.1(b).

7.3 As a consumer, you have legal rights in relation to Services not carried out with reasonable skill and care, or if the materials the Council uses are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.

8. PRICE AND PAYMENT

8.1 The price of the Goods and/or the Services are as set out on the Council's website.

8.2 You must make payment for Goods in advance by credit or debit card.

8.3 Where the Council is providing Services to you, the Council will ask you to make an advance payment for the full annual price of the Services at the time of your Application.

8.4 The Council shall not be obliged to repay any amount paid by direct debit where you have failed to provide the notice of cancellation of the Services as set out in Clause 11.

8.5 If you cancel your direct debit without notifying the Council in advance as set out in Clause 12 and the Council has continued to provide the Service you will still be liable to pay for the period until such cancellation notice is received and the Council will invoice for you the amount owed.

8.6 If you dispute the amount that has been deducted by direct debit you must inform the Council immediately and the Council will investigate the same.

9. LIABILITY

9.1 The Council will make good any damage to your property evidenced as being caused by the Council in the course of delivery of the Goods or performance of the Services. However, the Council is not responsible for the cost of repairing any pre-existing faults or damage to your property that the Council discover in the course of delivery and/or performance.

9.2 The Council only supply the Goods and/or Services for domestic and private the use. You agree not to use the Goods and/or Services for any commercial, business or re-sale purpose, and the Council have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

9.3 Without prejudice to any other provisions in this Contract, you shall indemnify and keep the Council indemnified against any Losses (which shall mean, all actions, liabilities, damages, costs, losses, claims, charges, expenses, demands, penalties, compensation, fines and proceedings (including economic and/or consequential loss) whatsoever and howsoever arising whether in contract, tort or otherwise directly or indirectly out of or in connection with the Goods, Services and/or this Contract. For the avoidance of doubt, Losses include time and resources spent by Council officers resulting from a breach or failure arising from all breaches of this Contract) and such indemnity shall be paid without any deduction or set-off.

9.4 You shall indemnify and keep indemnified the Council against all Losses whatsoever in respect of or in any way arising out of the provision of the Goods or Services in relation to the injury to or death of any person and loss of or damage to any property including property belonging to the Council except and to the extent that it may arise out of the act, default or negligence of the Council, its employees or agents.

9.5 The Council do not exclude or limit in any way The Council liability for:

- (a) death or personal injury caused by the Council's negligence or the negligence of the Council's employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 and by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) breach of the terms implied by sections 13, 14 and 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 (description, satisfactory quality, fitness for purpose and samples); and
- (e) defective products under the Consumer Protection Act 1987.

10. EVENTS OUTSIDE THE COUNCIL'S CONTROL

10.1 The Council will not be liable or responsible for any failure to perform, or delay in performance of, any of the Council's obligations under these Terms that is caused by an Event Outside the Council's Control.

10.2 An Event Outside the Council's Control means any act or event beyond the Council's reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.

10.3 If an Event Outside the Council's Control takes place that affects the performance of the Council's obligations under these Terms:

- (a) The Council will contact you as soon as reasonably possible to notify you; and
- (b) The Council's obligations under these Terms will be suspended and the time for performance of the Council's obligations will be extended for the duration of the Event Outside the Council's Control. Where the Event Outside the Council's Control affects the Council's delivery of Goods to you, The Council will arrange a new delivery date with you after the Event Outside the Council's Control is over. Where the Event Outside the Council's Control affects the Council's performance of Services to you, the Council will restart the Services as soon as reasonably practicable after the Event Outside the Council's Control is over.

10.4 You may cancel the contract giving one month's notice if an Event Outside the Council's Control takes place and you no longer wish the Council to provide the Goods and/or Services. The Council will only cancel the contract if the Event Outside the Council's Control continues for longer than 12 consecutive collections.

11. YOUR CANCELLATION & REFUND RIGHTS

11.1 Before the Council begins to provide the Services or the Goods are delivered, you have the following rights to cancel an Application for Goods and/or Services:

- (a) You may cancel any Application for Goods and/or Services on the giving of 3 Working Days notice to the Council from the date of the Application.
- (b) If you cancel an Application under clause 11.1(a) and you have made a payment in advance for Services that have not been provided to you, or Goods that have not been delivered to you, the Council will refund these amounts to you.
- (c) However, if you cancel an Application for Services under clause 11.1(a) without providing the required 3 Working Days notice the Council will not refund to you any of the sum paid at the time of your Application nor will the Council deliver the Goods and/or Services to you.

11.2 If you cancel the Goods and/or Services further to Clause 10.4 above the Council will be unable to refund any amount paid at the time of your Application.

11.3 Once the Council has begun to provide the Services to you, you may cancel the contract for the Services at any time by providing the Council with at least one month's notice in writing. Please note that you will not be refunded any of the amount paid at the time of your Application.

11.4 For the avoidance of doubt, you are responsible for informing the Council immediately of any intention to change address to;

- (a) Enable the Council to amend your application details to state your new address for the purposes of delivering the Service if you remain in an Eligible Property within The Royal Borough of Kensington and Chelsea; or

(b) To cancel the service delivery as you will no longer be resident in an Eligible Property and/or one within The Royal Borough of Kensington and Chelsea.

11.5 The Council shall not make any refund of the amount paid on Application on receipt of notification of a change of address as set out in Clause 11.4 above.

12. THE COUNCIL'S CANCELLATION RIGHTS

12.1 If the Council has to cancel an Application for Goods and/or Services before the Services start or the Goods are delivered:

(a) The Council may have to cancel an Application before the start date for the Services or before the Goods are delivered, due to an Event Outside the Council's Control or the unavailability of stock or (in the case of Services) key personnel or key materials without which the Council cannot provide the Services. The Council will promptly contact you if this happens.

(b) The Council will not be able to refund the sum paid for Goods further to a cancellation under Clause 12.1(a). Where such events result in a complete failure to be able to provide the Services for 12 consecutive collections the Council shall refund the amount paid at the time of your Application. This is subject to the requirement to inform the Council of non-collection as set out in Clause 7.2.

12.2 Once The Council have begun to provide the Services to you, the Council may cancel the contract for the Services at any time by providing you with at least 30 calendar days' notice in writing. There is no guarantee that the Council will be able to refund the payment made at the time of Application in these circumstances.

12.3 The Council may cancel the contract for Services at any time with immediate effect by giving you written notice if:

(a) you cancel your direct debit payment without notifying the Council in advance; or

(b) you breach the contract in any other material way and you do not correct or fix the situation within 7 Working Days of the Council asking you to.

12.4 Cancellation further to 12.3 shall not result in any refund of the sum paid at the time of the Application.

13. HOW TO CONTACT THE COUNCIL

13.1 If you have any questions or if you have any complaints, please contact the Council. You can contact the Council by telephoning the service team or by e-mailing the Council the relevant details of which are as set out on the Council's website.

13.2 If you wish to contact the Council in writing, or if any clause in these Terms requires you to give the Council notice in writing, you can send this to the Council by e-mail to gardenwaste@rbkc.gov.uk or post to Garden Waste, 37 Pembroke Road, London W8 6PW. You may also call 020 7341 5199.

13.3 How the Council may use your personal information

13.4 The Council will use the personal information you provide to the Council to:

(a) provide the Goods and/or Services;

(b) process your payment for such Goods and/or Services; and

13.5 The Council will not give your personal data to any other third party.

14. OTHER IMPORTANT TERMS

14.1 The Council may transfer the Council's rights and obligations under these Terms to another organisation, and the Council will always notify you in writing if this happens, but this will not affect obligations under these Terms.

14.2 This contract is between you and the Council. No other person shall have any rights to enforce any of its terms.

14.3 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

14.4 If the Council fail to insist that you perform any of your obligations under these Terms, or if the Council do not enforce The Council rights against you, or if the Council delay in doing so, that will not mean that the Council have waived the Council's rights against you and will not mean that you do not have to comply with those obligations. If the Council does waive a default by you, the Council will only do so in writing, and that will not mean that the Council will automatically waive any later default by you.

14.5 These Terms are governed by English law. You and the Council both agree to submit to the non-exclusive jurisdiction of the English courts.