

SCOTTISH ENVIRONMENT PROTECTION AGENCY

**THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND) ORDER 2015
("the Order")**

FIXED MONETARY PENALTY NOTICE

FMP Reference Number: FMP-2023-9001

To: Stella's Voice

██████████
Clanfield
England
PO8 ████████

Company Number: 01382673

The Scottish Environment Protection Agency (SEPA) hereby notifies you that you are liable to a Fixed Monetary Penalty (FMP) because SEPA is satisfied on the balance of probabilities that you have committed a relevant offence prescribed under the Order, namely an offence under Section 33(6) of the Environmental Protection Act 1990.

Grounds for the proposal to impose the fixed monetary penalty:

SEPA is satisfied that Stella's Voice disposed of controlled waste on land without the authority of a waste management licence on the date and at the location specified below, in that an employee of the company disposed of waste there by burning and that there is no waste management licence in place for the land. This is contrary to the Environmental Protection Act 1990, Section 33(1)(b)(i).

In terms of Section 33(1)(b)(i) of the Environmental Protection Act 1990, a person shall not dispose of controlled waste on any land except under and in accordance with a waste management licence. Disposal means any of the waste disposal operations listed in Part II of Schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011, and any other operation relating to waste which is not recovery even where it has as a secondary consequence such as the reclamation of substances or energy. The burning of controlled waste is considered a waste disposal operation.

It is an offence under Section 33(6) of the Environmental Protection Act 1990 to contravene Section 33(1)(b)(i).

On 2 November 2022, an authorised SEPA officer attended the location following a report of a large pile of waste at the rear of the yard. The SEPA officer advised both the site manager and the site maintenance employee that this waste should not be burned.

On 4 November 2022, SEPA received a complaint from a member of the public that a fire had been set at Stella's Voice on 3 November 2022. A SEPA officer attended on 5 November 2022 and observed that a quantity of controlled waste had been burned at the same location at which the pile of waste had been previously observed. The SEPA officer located an employee on site and exercised the power under section 108(4)(d) of the Environment Act 1995 to direct that those parts of the premises be left

undisturbed for the purpose of an examination and investigation under section 108(4)(c) of that Act. This direction was followed up with a letter by personal service on 7 November 2022.

On 8 November 2022 two authorised SEPA officers attended the location below. The SEPA officers observed a quantity of burned material and were able to identify a number of items of controlled waste in the pile including metals (mattress springs, mechanical parts of reclining furniture, parts of shelving units), parts of burned wooden furniture (shelving units, drawers), a piece of insulation, and a quantity of melted glass. Photographs of this were taken by an authorised SEPA officer.

SEPA officers spoke to a witness on 8 November 2022 and subsequently on 17 November 2022 who confirmed that he was an employee of Stella's Voice, that he was aware of the disposal of controlled waste by burning, that the fire had been set on 3 November 2022 at approximately 1600hrs, and that he had been instructed by his manager on the morning of 3 November 2022 to set the fire. He stated that the burned waste consisted of mattresses, sofas, pallets, wardrobes, pine headboards and similar items that had been donated to Stella's Voice but were unsuitable for onward sale.

Under Section 38 of the Regulatory Reform (Scotland) Act 2014, where a person commits a relevant offence while acting as the employee of another person, the latter also commits the relevant offence and is liable to be proceeded against accordingly. SEPA is satisfied, based on the above witness statement and observations made by two authorised SEPA Officers on site that a relevant offence was committed by a person while acting as an employee of Stella's Voice and therefore, in terms of Section 38, that Stella's Voice also committed the relevant offence. SEPA is satisfied that in this instance Stella's Voice failed to take all reasonable precautions and exercise all due diligence to prevent the offence being committed. On this basis SEPA has decided that proceedings should be taken against the company.

SEPA is satisfied that this was a waste disposal activity and that Stella's Voice has no authorisation to dispose of controlled waste on this land by burning.

Date of offence: 3 November 2022

Location of offence: Land at Stella's Voice, [REDACTED] AB42 [REDACTED]
[REDACTED]

The amount of the FMP is £600.

You are required to pay the sum in full **within 56 days** beginning with the day this notice is served on you.

Details of how to pay, what will happen if you do not pay and how to appeal against this Notice are provided overleaf.

Signed [REDACTED]

Date: 11 January 2023

Authorised to sign on behalf of
The Scottish Environment Protection Agency

FMP Reference Number: FMP-2023-9001

Amount of Penalty and effect of payment

The penalty has been set in accordance with the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the Order”).

How to Pay a Fixed Monetary Penalty

Acceptable payment methods are: Personal or Company Cheques, Debit Card, Credit Card, Postal Orders, and BACS.

Card payments can be made via the SEPA “Pay My Account” Service at www.sepa.org.uk/payments. You should quote the FMP Reference Number as detailed on the front of this Notice and at the top of this page in all communications with SEPA.

To make a BACS payment please contact emailinvoices@sepa.org.uk or call 07388 371 621 for our bank account details or queries.

Cheques and Postal Orders should be made payable to: **Scottish Environment Protection Agency** and sent to FMP Unit, SEPA, Strathallan House, Castle Business Park, Stirling, FK9 4TZ

Late payment and Non-payment

If you do not pay the full amount owed within **56 days** beginning with the day this notice is served on you, the amount due will be increased by 40% in accordance with the Order. SEPA can recover sums due but not paid in full as a civil debt.

Appeals

You can appeal against this Notice to the Scottish Land Court within 28 days beginning with the date of service of this Notice on the grounds that:

- The decision was based on an error of fact
- The decision was wrong in Law
- The decision was unreasonable
- any other reason, (with the exception that the Order states that it is not a valid ground of appeal that SEPA failed to comply with the Guidance issued to it by the Lord Advocate under the Act).

You should submit your Appeal to The Scottish Land Court, George House, 126 George Street, Edinburgh, EH2 4HH. An application form for an appeal can be obtained by contacting the Court on 0131 271 4360 or from the Court’s website at <http://www.scottish-land-court.org.uk/using/making-an-application>. It would be helpful if you also sent a copy of your appeal documentation to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ.

The bringing of an appeal will have the effect of suspending payment of the penalty until after the appeal has been determined or withdrawn.

Queries

Any queries about this Notice should be addressed to SEPA, The Registry Department, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire, ML1 4WQ or by email to registry@sepa.org.uk. Please note that entering into correspondence does not alter the timescale for submission of an appeal or payment being due.

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The Data Protection Act 2018

Any personal data provided in connection with this Notice will be processed by the Scottish Environment Protection Agency for the purposes of publication and may be disclosed to Scottish Government and other public bodies. We may also pass it on to our agents/representatives to act on our behalf in connection with this Notice. Please address any questions, comments and requests regarding our data processing practices to dataprotection@sepa.org.uk

Additional information about how we use personal information in the context of monetary penalties is available in the relevant SEPA Privacy Notice, which can be accessed from our website www.sepa.org.uk/help/privacy-policy/privacy-notices

Information in relation to penalties will be published and publicised in accordance with SEPA's Policy on Communicating Penalties and Undertakings, which can be accessed from our website.

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