

# **Motorway Cleaning Management Failings at the Highways Agency**

A report prepared for

Alan Cook

Chairman of the Highways Agency

By

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## Summary

This report has been prepared for [Alan Cook](#), the Chairman of the Highways Agency (HA) to aid his review of the Agency in advance of his report to Philip Hammond MP, the Secretary of State for Transport, due in October 2011.

It looks solely at the issue of motorway cleaning and highlights the inadequacies of the current contractual arrangements, the failure of the HA to manage them effectively and the excuse culture used to camouflage the resulting deficiencies.

It explains why, in the words of the Under-secretary of State for Transport, “**our motorways are blighted by litter**” in spite of the fact that under S89 (1) of the [Environmental Protection Act 1990](#) the Secretary of State has a **duty to ensure that any motorway for which he is responsible is, so far as is practicable, kept clear of litter and refuse.**

The author, Peter Silverman MA MSc is a campaigner for cleaner roads and runs the [www.cleanhighways.co.uk](http://www.cleanhighways.co.uk) web site. This includes a number of case studies dealing with motorway cleaning. He works closely with the [Campaign to Protect Rural England](#) and [Clean Up Britain](#).

This report makes extensive use of hyperlinks to point to source material and should be read by electronic means. A copy can be seen at [www.cleanhighways.co.uk/highways-agency/alan-cook-report](http://www.cleanhighways.co.uk/highways-agency/alan-cook-report)

## The Contracts

The HA have two types of maintenance contract. The MAC (Managing Agent Contractor) contract and the DBFO (Design Build Finance Operate) contract.

The contractual obligations with regard to cleaning are referenced in the following documents. The key elements of which are summaries in each case:

### [Routine & Winter Service Code 2.17 -Sweeping & Cleaning](#) MAC

*Overall Requirement- a network free from litter, refuse and/or obstructions.*

*A performance requirement to comply with the standard of cleanliness given in the EPA – Code of Practice on Litter and Refuse.*

For verges it says:

*Standards to be achieved after sweeping and cleaning: Grade B (Predominantly free of litter and refuse apart from some small items)*

*Restore to clean from Grade C (Widespread distribution of litter and refuse with minor accumulations): 28 days.*

### [Network Management Manual – 3.14.1](#) MAC

*The service provider is responsible for discharging the duties of the Secretary of State and must maintain the network clear of litter and refuse in a state of cleanliness as recommended by the EPA: Code of Practice.*

Reference is made to the Code emphasising *consistent and appropriate management to keep it clean rather than how often it is cleaned.*

*The service provider must adopt a proactive approach, programmed scavenges should be used as need dictates, together with black spot scavenges.*

[DBFO Contracts](#) DBFO

They simply say:

*If and so long as required by the Secretary of State by notice to do so, the DBFO Co shall discharge in respect of the Project Road (or any part thereof specified by the Secretary of State) the duties of the Secretary of State under Sections 89(1) and 89(2) of the Environmental Protection Act 1990. In discharging those duties, the DBFO Co shall have regard to any codes of practice in force under Section 89(7) of such Act from time to time.*

### **What's wrong with these contracts and the way they are managed**

#### Lack of clear direction

The Litter Code of Practice refers to duty bodies having *cleansing strategies*, a statement of the steps that have to be taken with regard to the specific type of land under their control in order to comply with the legislation. The strategy for parkland would be different from that required for a university or a high street or a transport interchange.

However the HA do not have a Cleansing Strategy for motorways. There is therefore no clear specification of the work the contractors are required to do.

#### They are inconsistent

How can allowing a contractor to wait 28 days to clean a verge that has deteriorated to Grade C (widespread distribution of litter and refuse with minor accumulations) be consistent with ensuring, so far as is practicable, the land is kept free of litter. How much more litter is it going accumulate in that time? Please refer to the [How the Litter Code is misinterpreted](#).

#### Monitoring

There is no meaningful monitoring of performance against contract in spite of the [Office of Government Commerce's](#) advice to government departments that "*When an organisation has awarded a contract, it must monitor whether the service is being delivered to specification.*

In any case how would you monitor whether or not a contractor is taking more than 28 days to clean a verge?

The only way to ensure compliance would be to specify a minimum interval between regular clean-ups. Random checks could be made to see if marked items of litter had been removed after the minimum interval and statistical quality control methodology used to quantify performance against contract.

The responsibility for cleaning a stretch of the A40 was transferred from the local authority to the HA in 2009. The [Explanatory Memorandum](#) placed before Parliament stated that "*The monitoring of cleanliness will be conducted by the Highways Agency*".

[When I asked the HA for copies of the relevant inspection reports](#) I was told that they did not hold the information "*as all such reports are produced by our contractors*".

While it would be acceptable for the monitoring to be contracted out it is a clear breach of all the principles espoused by the OGC to contract this task out to the very organisation whose service levels you are supposed to monitor.

Please refer to [my letter to Mike Penning of 30<sup>th</sup> January 2011](#)

### What happens in practice

Instead of employing dedicated litter picking teams to work on a continuous and repetitive basis, litter picking is done by the contractors' Incident Support Units when they are not otherwise engaged. The skilled ISU personnel often resent having to fulfil these duties which can entail dealing with dead animals, soiled nappies and bottles of urine.

The combination of this reluctance to do the work, the lack of any effective monitoring and control from the customer and any commitment to repetitive and systematic cleaning has led to a collapse of standards.

This is nicely exemplified in the [M40 case study](#). The southern half of this scenic motorway had been allowed to deteriorate to an abysmally littered state in the autumn / winter of 2009/2010. In February 2010 no litter picking whatsoever took place until the arrival of an EPA S91 Warning Notice. I had sent this to the Secretary of State saying I would go the Magistrates' Court and seek a Litter Abatement Order to compel him to clean up the motorway if things did not improve.

Cleaning activity increased by a factor of 6. A freedom of information enquiry found that there were no communications between the HA and their M40 contractor dealing with litter/ cleaning in the 6 months to 30<sup>th</sup> March 2010 when the condition of the motorway was at its very worst.



The contractor, or rather the contractor's subcontractor Carillion plc, subsequently up dated their own [code of practice](#). They now say, quite unashamedly, in note 2 that slip roads with no hard shoulders will be targeted for litter picking twice a year. This photograph shows the condition of one such slip road verge at J1 in April 2011.

Balfour Beatty is doing a much better job on the M32. They say that they clean the stretch of the [M32 from J2 to Bristol](#) bi-monthly i.e. every 8 weeks!!!

In turn the HA adopt the attitude that they have discharged their duties to the contractor. This was the exact phrase used in [their response to my first Litter Abatement Order Warning Notice](#). The impression given was that it was not their problem anymore. Other complaints about litter are routinely passed to the contractor to deal with. However, the HA cannot discharge the legal responsibilities of the Secretary of State in this way. Whatever the contracts say he is still responsible for ensuring our motorways are kept free of litter.

### How the HA and the DfT cover their tracks

When these deficiencies are exposed they are conveniently dealt with by a battery of well-honed excuses, misrepresentations and diversions. We are told...

... of the need to keeping traffic moving and that "... *litter clearance inevitably requires the use of traffic management*" (i.e. lane closures). However most litter sits on the verges of open stretches of motorway with hard shoulders. No traffic management is required to litter pick them. ([Source](#))

... that the "*Highways Agency has been in discussion with many of its managing agents with a view to improving the appearance of motorway verges and slip roads, to ensure that the requirements of the Environmental Protection Act 1990 are met across the network*". However

a freedom of information request for supporting correspondence revealed no record of any such discussions. ([Source](#))

... about the “*Bag it and bin it*” and “*Love where you live*” campaigns and the HA’s participation in DEFRA’s Litter Convention. It’s a lot less stressful to spend taxpayer’s money on campaigns which give the impression that you are doing something rather than tackling the root cause of a problem.

...the tonnage of litter collected by the HA’s contractors each year. While it is deplorable that so much litter is discarded what is important in assessing the performance of the HA is how quickly it is picked up afterwards. “*Not very*” would seem to be the answer.

... it would cost too much. But we are already paying the contractors to meet the standards set in the EPA. The HA should get them to deliver what they are being paid for.

### **Our Littered Motorways**

The net effect, in the words of Mike Penning, the Minister in charge of the Highways Agency, is that “***our motorways are blighted by litter***”.

His speech made on 30<sup>th</sup> March 2010 can be seen on this [video](#).

Interestingly, exactly 12 months later the Highways Agency published its [Business Plan](#). It made no mention of litter or cleaning whatsoever! The plan’s author the Chief Executive of the HA, Graham Dalton, does not it would seem share Mr Penning’s concerns.

Finally, to see what Mr Penning was referring to please look at this [video](#)

### **Recommendations**

- (1) A change at the top of the Highways Agency is required. Someone from the commercial world with expertise in hard-nosed contract management, customer service and culture change should be brought in as a matter of urgency.
- (2) A comprehensive cleansing strategy should be drawn up covering each type of motorway component (main carriage ways, intersections, slip roads with and without hard shoulders, central reservations etc) defining safe cleansing procedures and minimum cleansing frequencies in each case. In only exceptional cases, such as central reservations, should this be less than 1 week.
- (3) Negotiations should be held with the contractors to get them to adopt the new procedures on the basis that their own procedures have failed to deliver the contractual standard for which they are being paid.
- (4) An independent body should be used to monitor the cleanliness of our motorways and provide publically available reports on the state of each stretch. This data should then be used to adjust payments to underperforming contractors.