

Report 5

Compliance with EPA S89(1) *Duty to keep land and highways clear of litter*

Report prepared by Peter Silverman of Clean Highways

For the Chief Executive Officer of the Highways Agency, Graham Dalton

22nd March 2015

Introduction

Mr Dalton, please refer to my previous reports in this series. They can be accessed via the links at the bottom of my rolling report, [Litter on Motorways and Trunk Roads](#) as can Bob Castleman's response on your behalf to my report of 11th February.

Feedback from road users – “The Dirty Dossier”

I have been overwhelmed by the volume of feedback I have received via the Clean Highways web site. Rather than continuing to collect and process this I have amalgamated all of the feedback received from 1st January to 17th March into a separate report for you – the [Dirty Dossier](#). As you will see it contains 188 complaints about highway litter. The vast majority concern the Highways Agency's network.

I was disappointed that Bob Castleman was unwilling to share with me any of the complaints about litter received directly by the Agency.

Is it not time for the Agency to admit that it is failing to comply with the duty imposed on the Secretary of State for Transport by [Section 89\(1\) of the Environmental Protection Act](#) to ensure, so far as is practicable, that the highways for which he is responsible are kept clear of litter and refuse?

Please pick up the litter

There is a massive back log of accumulated litter on the network. A one off effort is needed to remove it after which a new regime should be introduced to “ensure” that it is then “kept” clean.

I believe that sufficient resources are already in place to execute this task.

When I pass any of your contractors' depots I frequently see blocking vehicles parked up doing nothing. Based [on my experience with the M40](#) I suspect that the manpower is also available.

You will recall that when I issued a legal warning notice to the Secretary of State for Transport back in 2010 the contractor somehow found the resources to increase the level of cleansing by a factor of 6 and the road was brought up to standard in 4 months.

This exercise should be repeated across the network. Let's start right now.

Your strategy, espoused on your behalf by Bob Castleman, of:

Having a “vision” for keeping our network free of litter

Working with anti-litter organisations

Implementing national ant-litter campaigns

Working with external stake holders

Attending quarterly meetings with the keep Britain Tidy Working Group

Having an interactive presence on Twitter

is no substitute for picking up the litter and prosecuting those who deposit it in the first place.

Litter from waste transport vehicles

Ed Holton (page 5 of the Dirty Dossier), Lance Kennedy (page11), Dean Grice (page 25) and Lesley Stradwick (page 26) have all provided evidence that these vehicles are a major contributor to roadside litter. I have also witnessed litter falling from these vehicles on more than one occasion. Dean Grice has posted these two video illustrating the problem.

<http://youtu.be/NdnZGDT4LVQ>

<http://youtu.be/ZoxyNkDAi8Y>

Getting your local contractor to write to the offending operator saying that if a police officer had observed an incident they might receive a £60 fixed penalty notice is not going to solve this problem.

Will you, as I have recommended, start prosecuting the operators of these vehicles under EPA S34?

The Highways Agency’s All Purpose Trunk Roads – Liaising with Local Authorities



The Dirty Dossier contains numerous references to these roads such as the A14, A34, A20 and A404. This picture was taken from [Aiden Denton’s video](#) of the A20. Sam Beattie’s (Dirty Dossier page 24) videos of the A64 between Tadcaster and York (<http://youtu.be/6cDEf3ZbQrM> <http://youtu.be/MO5yXf2kmcE>) is also recommended viewing.

In 2102 Christopher Chope MP was told in regard to litter that *“The Highways Agency regularly monitors cleanliness of the all purpose trunk roads”* and *“.. the Agency will write to the relevant authority asking for appropriate action to be taken”*

I asked for copies of such correspondence but my request was refused on the ground that it was “manifestly unreasonable”. This was reversed after my successful appeal to the Information Tribunal. However the information I subsequently received did nothing to validate the statements made to Mr Chope.

Earlier this year Peter Martin (Dirty Dossier page 23) was told *“The Agency regularly monitors the cleanliness of its network and where it considers that the standards set by the Environment Protection Act are not being met, writes to the relevant local authority asking for swift action to be taken to cleanse the area of accumulated rubbish....”*.

I asked for sample copies of the monitoring reports and correspondence but my information request has again been rejected, again on the grounds that it was “manifestly unreasonable”..

I do not think it was. We need to know if the monitoring is taking place and if the Agency are really holding local authorities to account in the way that is claimed.

I have already pointed out that several local authorities are seemingly unaware of their responsibility to clean these roads. Simon Guise (Dirty Dossier page 9) has now been told by Northampton County Council that the Highways Agency are responsible for cleaning their section of the A14.

Could you please over-ride this refusal and provide sample copies of the documentation requested.

The Highways Agency’s All Purpose Trunk Roads – Taking over responsibility for cleansing

The recent report on litter produced by the Commons C&LG Select Committee said under [Keeping roads and highways Clean](#):

Clean Highways, a group focussing on legislation on litter, pointed out that before cleaning a trunk road a council would often have to get permission from the Highways Agency to close a lane. The Agency would normally insist the work was carried out late at night to minimise traffic disruption, but councils were ill-equipped to handle this work which often necessitated hiring crash cushion vehicles and signage. Warwickshire Waste Partnership explained that despite repeated efforts local authorities had been unable to establish effective partnerships, coordination and communication with the Highways Authority and their contractors. It said that working with the Highways Agency was “a nightmare”. In addition, the costs associated with litter removal and implementing safe methods of working on trunk roads were disproportionately expensive for district and borough councils.

They recommended that:

Responsibility for cleaning and maintenance of trunk roads is split between councils and the Highways Agency. Coordination has been poor. **We are clear that responsibility for clearing litter and fly-tipping from all purpose trunk roads has to move over to the Highways Agency**, and Transport for London in London.

In my report to you of 11th February I wrote:

To obviate the problems associated with this completely irrational division of responsibilities I recommend that the Agency should ask the Secretary of State to make the appropriate orders under [EPA S86\(11\)](#) to transfer cleaning responsibility for these trunk roads from the local authorities to itself.

In response Bob Castleman wrote:

Cleaning of ATPRs – the Agency is working towards setting criteria for roads on which it may be more suitable for Highways England to collect litter.

This does not bode well for a speedy resolution of the issue.

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Copied to:

Colin Matthews, Chairman of the Highways Agency

John Hayes MP, Minister of State (Department for Transport)

Louise Ellman MP, Chair of the Commons Select Committee on Transport

Andrew Gwynne MP

John Hemming MP

Christopher Chope MP

John Pugh MP, C&LG Select Committee