

Feedback on Draft WISH 24

Clean Highways

19th May 2015

Summary

Under EPA S89(1) duty bodies have an obligation to **ensure, so far as is practicable** that the highways for which they are responsible are **kept** clear of litter and refuse.

Operator safety issues are often used as an excuse for non-compliance with this duty.

Chapter 8 and the Red Book make no mention of litter picking.

There are fundamental differences between road works and litter picking.

Road related risks need to be defined.

The DfT's Interim Advice Note 115/08 is the only published health and safety guidance that deals with litter picking on high speed roads. It says that Chapter 8 is a "consideration" i.e. it is not prescriptive.

The WISH 24 draft implies that it is prescriptive. If that is the intention I believe this is a mistake.

If IAN 115/08 is not to be discarded then it needs to be clarified.

Paragraph 12 on joint working will provide duty bodies with the perfect excuse not to litter pick.

Fundamental differences between "litter picking" and "road works"

Compare repairing a gully with removing a piece of litter from it. Assuming there was an adjacent verge, protected by a crash barrier the litter-picking operative would be able to:

Work solely from the verge (given sufficient width and a safe footing).

Only approach the gully when there were gaps in the traffic, or where vehicles were queuing, or travelling at low speed, for example, at the lights at the bottom of an off-slip road.

Carry out the task remotely using a litter grab or a rake.

None of these options would be available to operative carrying out the gully repair.

Applying the same safety regulations to would mean that H & S "red tape" would deter the safe collection of litter in many locations including hot spots at the ends of off-slips roads.

[Incidentally I have asked Highways England to look into the feasibility of holding up queuing traffic for a few extra minutes at the end of off-slips while litter operatives blitz the verges].

Road related risks

Para 21 of the draft says that C8 needs to be applied if there is a “road related risk”.

Would litter-picking in the above situation be regarded as a road related risk?

What if there was no barrier?

What if there was no barrier but there was a hard shoulder?

Interim Advice Note 115/08 and Traffic Signs Manual Chapter 8.

In the introduction to Interim Advice Note 115/08 - Requirements and Guidance for Works on the Hard Shoulder and Road Side Verges on High Speed Dual Carriageways it states:

The intent is that the guidance given in this document may be included within future revisions of the Traffic Signs Manual Chapter 8.

In P(10) it states:

Where a series of short or medium duration stops are made which comprise mobile works **on the verge**, in support of activity such as walk through surveys or **litter picking**, a minimum **separation distance of 1.2m** must be maintained between personnel and the nearest **live lane**.

The risks involved in such work must be assessed, and any risk assessment must demonstrate that **consideration** has been given to providing appropriate protective measures such as lane closures, protection of a blocking vehicle in the hard shoulder (in accordance with the Traffic Signs Manual Chapter 8 Part 2: Operations Plan MLC6, shown as Figure 3 in this document), coning along the edge of the verge or a combination of measures appropriate to the risks involved.

Para 23 of the draft. States **“As an example, the collection of litter alongside a motorway or dual carriageway should be undertaken in full accordance with the Red Book code of practice”**.

I assume there is a typo and “Red Book” should be “Chapter 8”

If full accordance with C8 means in accordance with C8 *modified by Interim Advice Note 115/08* then it means that “consideration” needs to be given to various protective measures including lane closures or a blocking vehicle. The risk assessor can decide if any such measures are required and which ones to go for.

If it means in accordance with C8 (unmodified) then the assessor has no discretion and has to go by the book. There is no 1.2 meter rule. How does he work out what to do?

Is the new advice intended to by-pass IAN 115/08 in this way?

Assuming it is to be retained it might need clarifying as follows:

P(10) refers to works “on the verge” but litter picking frequently takes place from the hard shoulder with the operative protected by a blocking vehicle.

Also “live lane” needs to be defined. It was not clear to me whether a hard shoulder is a live line. References to “live” lanes/traffic in Chapter 8 however imply it is not.

Then there is the 1.2 m separation distance. It would seem to me it ought to apply to the operative's feet which would mean he could still pick up litter located at the edge of the live lane as demonstrated in this photograph taken from The Highways Agency's (as it was then) Litter Strategy.



Para 12 - Joint working

HE contractor [Balfour Beatty Mott McDonald have stated](#) that *"in order to cut down on unnecessary road worker exposure, e.g. placing temporary traffic management just to clear litter, we will wait until other maintenance activities are required and then do it all in one hit"*.

This is based on a misinterpretation of [similar paragraph in the Litter Code of Practice](#)

If the intention of WISH 24 / 12 is just to make the obvious point that when traffic management is in place the opportunity should be taken to remove litter that's fine but the paragraph should make this clear.

If the intention is to advise bodies who have a duty under EPA S89(1) that they only need to litter pick certain areas when they have to do other maintenance work to do it is clearly wrong. A piece of road side land might not need to be worked on from one year to the next but it may need litter picking on a monthly or even a weekly basis.

Whatever the intention the current wording will be used by duty bodies and their contractors to say that under H & S legalisation litter picking is only permitted when undertaking other maintenance work.

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