

Submission to the House of Commons Select Committee on Transport

Inquiry into the strategic road network

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Background

In March 2010 Mike Penning MP said in a [debate in Westminster Hall on Motorway Litter](#) that “*our road networks, in particular our motorways are blighted by rubbish. I am aware that there is legislation in place however ... it is frankly not working*”.

Rather disappointingly none of the [Highways Agency's Business Plans](#) published during his subsequent tenure as minister with responsibility for the motorways contained any reference to this problem.

The prime objective of [Clean Highways](#) is to find out why the legislation is not working and advise the Government accordingly. I am now working closely with Andrew Gwynne MP.

Statutory Duty

The Secretary of State for Transport has a duty under the S89 (1) of the [Environmental Protection Act 1990](#) (EPA) in respect to the trunk roads and motorways for which he is responsible **to ensure, so far as is practicable, that they are kept clear of litter and refuse**. In doing so he has to have regard to the [Litter Code of Practice](#).

Relevance

Any failings in this regard should be taken into account in considering the reforms required to improve the management of the network. Also, *efficient travel* should include the concept of travel in a clean environment.

Summary

1. I present evidence that the Highways Agency's continuing mismanagement of its contractual relationships with its service providers is putting the Secretary of State in breach of his EPA S89(1) duty.
2. To defend their position the Agency and the DfT adopt a tacit policy of [obfuscation](#). A culture of excuses needs to be replaced by one of problem solving and customer service.
3. Independent scrutiny of the Agency is sorely needed. A body should be set up for this purpose with a brief that includes scrutiny of compliance with EPA S89 (1).
4. Currently the only way the Highways Agency can be brought to book is if an aggrieved citizen makes a complaint to a Magistrates Court under EPA S91. While this can produce [positive results](#) it is a daunting task for the first-time complainant and potentially [a very expensive one](#).

5. The proposed independent scrutiny body should therefore have powers to investigate such complaints.
6. Responsibility for cleaning many of the trunk roads on the strategic network lies with the local authority. I recommend that [this responsibility should be transferred to the Highways Agency](#) to better co-ordinate cleansing with other maintenance work.

Service provider contract mismanagement

1. To ensure compliance with EPA S89 (1) the Highways Agency's contracts with their service providers should specify:
 - A. Appropriate outputs and/or inputs in such a way that the Agency, or an independent assessor, can monitor the provider's performance against specification.
 - B. How that monitoring will be carried out and the results quantified.
 - C. The consequences of substandard performance.

The contractor could then devise his own programme of inspections and cleansing, and be motivated to execute it in a timely and thorough manner.

However this is not what happens.

2. [M40 the contract simply states](#) "...the DBFO Co shall discharge ...the duties of the Secretary of State under Sections 89(1) and 89(2) of the Environmental Protection Act. In discharging those duties the DBFO Co shall have regard to any codes of practice in force under Section 89(7) of such Act.."

[The Agency does not carry out any formal monitoring](#) of the cleanliness of this motorway.

3. Random 5 km sections of the [M25 are subject to monthly checks](#) by the Agency. However, the process is badly flawed. The provider knows in advance which section is to be checked. The grades-of-cleanliness definitions are more relaxed than those in the Litter Code of Practice. Slip roads, notorious litter black-spots, do not seem to be included. Only areas observable from a moving vehicle on the carriageway are checked. Litter on a [downward sloping verge or in a ditch](#) is not therefore be taken into account.
4. The recent implementation of the Agency's new Asset Support Contract in Area 10, which includes the Manchester and Liverpool conurbations, can only be described as a disaster. No cleansing whatsoever took place in the first two months of its operation. 172 bags worth of litter were allowed to accumulate at just one junction.

Please refer to my [e-mail to the Permanent Secretary](#) and the [unhelpful reply](#) I received.

[Further reading](#)