

**From:** Peter Silverman  
**Sent:** 02 June 2014 17:44  
**To:** 'robert.goodwillXXdft.gsi.gov.uk'  
**Cc:** 'louise.ellman.mpXXparliament.uk'  
**Subject:** Our littered motorways 5

Attn: Robert Goodwill, Under-secretary of State for Transport

Dear Robert,

You can refer to [our previous correspondence here](#). Please note I am copying this to Louise Ellman MP, Chair of the Commons Transport Select Committee.

Further evidence of non-compliance with [EPA S89\(1\)](#) – Duty to keep land and highways clear of litter

Area 10 - Decline in cleaning

In your letter of 8<sup>th</sup> April you said that that the Agency was in discussions with the contractor about possible reasons for the variation. Are you able to tell me what they had to say?

Please refer to [Area 10 – More evidence of non-compliance with EPA](#) based on investigations made by Michael Pease. I will just highlight one point. He asked for a copy of a monthly grading report for the M602 and was sent the one drawn up on April 1<sup>st</sup> and 2<sup>nd</sup>. *This showed that every single section of main carriage-way verge was litter graded as C /heavy.*

Area 7 – M1 East Midlands

Ian Dare has been [told by the Area 7 contractor](#) that *“As part of our contract we are only obliged to clear litter once a year or when possible within any maintenance works where traffic management is in place”*.

Area 2 - Sub-standard land graded as acceptable

Please refer to [Area 2 – M5 – James Miller exposes substandard performance](#). James has discovered that Highways Agency staff do not carry out any formal inspections of roadside litter to check on the performance of the contractor. The contractor himself only inspects on a monthly basis. An area is given a grade B rating provided it had not deteriorated to a C. Only when it deteriorates to this level is it then scheduled for cleaning. Sub-standard land could therefore be left unpicked indefinitely under this regime.

Evidence of failure to comply with the Environmental Information Regulations

James Miller requested a copy of the sweeping and cleaning sections of the Area 2 Management Requirements Plan. The Agency failed to respond within the statutory time period and, when they did so, refused his request on the grounds that these section contained “commercially sensitive information”. This is however not a valid exception. Can you please expedite a copy for him?

I have had similar problems and you should be aware that the Information Commissioner has recently issued two Decision Notices admonishing the Agency/DfT following my complaints.

The problem seems to be caused by administrative errors and lack of training. In one case a communication between the DfT and the Agency went astray. In another an information request was incorrectly logged. Often refusal letters do not state which exception is being relied upon, what matters have been considered in applying the public interest test and what provisions there are for appeal.

#### The review that never was

I have been trying to find out how motorway cleansing standards may have been compromised by the 2010 Spending Review. Stephen Hammond, had said in a letter to Mike Penning that: *"During your time at the DfT you oversaw a major review of the Agency's maintenance contracts. This review was designed to deliver a similar level of service for road users including litter picking but at a much reduced cost"*. I put in a freedom of information request to the DfT for a copy of this "major review" only to be told *they did not hold any such review documents and that no such report had been commissioned*. I find this most confusing. Let me explain why.

The Transport Spending Review (Oct 2010) said in regard to maintaining the Highways Agency network that the network would be maintained at a lower cost and that this would be achieved by the introduction of new contracts and improved commercial management. In announcing the implementation of the first Asset Support Contract 16 months later (Feb 2012) the DfT stated *"The new contracts will ensure motorways and major 'A' roads continue to be maintained to high standards while delivering substantial savings and making the major part of the Highways Agency's contribution to reducing the budget deficit"*

To go from the position in Oct 2010 to that in Feb 2012 Mr Penning, the minister in charge at the time, must surely have overseen some sort of *"major review of the Agency's maintenance contracts"* as stated by his successor.

Please refer to [2010 Spending Review and the missing report](#)

#### Highways Agency to become a government owned company

I would recommend that the opportunity be taken to bring in both a Chairman and Chief Executive from outside both the civil service and the world of highway contracting to ensure a fresh approach is taken to dealing with contractors.

Has it been decided whether:

- (a) The Secretary of State will continue to be the person responsible under [EPA S89\(1\) – Duty to keep land and highways clear of litter](#) or if,
- (b) The new company will become a Designated Statutory Undertaker and take on this responsibility directly.

In either case what role, if any, would Passenger Focus and the Office of Rail Regulation (presumably re-named to reflect its expanded remit) have in promoting or ensuring compliance with this duty?

I hope this is of help and look forward to hearing from.

Kind regards

Peter Silverman

[www.cleanhighways.co.uk](http://www.cleanhighways.co.uk)