

**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**  
February 2015

**Introduction**

On the enactment of the Infrastructure Bill, the Highways Agency will become a duty body for the purposes of [Environmental Protection Act of S 89\(1\) - \*Duty to keep land and highways clear of litter\*](#).

I believe the underlying reason why so many of our local roads and highways are blighted by litter is that there is no formal scrutiny of the extent to which councils and highway authorities comply with this duty. As a result standards have been progressively and increasingly dumbed down.

[Clean Highways](#) seeks to rectify this by monitoring the compliance of duty bodies with EPA S89 (1) and providing constructive feed-back to them and to central government.

With regard to the strategic network of motorways and trunk roads my feed-back has previously been directed to the Department for Transport. It can be seen [here](#). This is my first report to the Highways Agency.

Quotations from roads users are in green and have [all be received since January 1<sup>st</sup> this year](#).

**Service Provider Contracts**

I wish to applaud your decision to [withdraw the new Asset Support Contract](#). As you may know I had [written to the then roads minister, Mike Penning MP](#), in 2012 recommending the very same action. I hope that my [briefing note](#) to your new Chairman, Colin Matthews, may have been of some assistance in helping you reach this decision.

Any replacement contract should specify outputs and/or inputs in such a way that the Agency can monitor the provider's performance against specification. For cleansing the best way to do this would be to specify cleaning frequencies supplemented by inspections to identify and rectify specific incidents. I would welcome the chance to advise on the redesign.

In the meantime what approach will the Agency take to those areas operating under the ASC? Will the old contracts be re-negotiated?

**Taking maintenance in-house**

Having said that I would recommend that as the old area contracts expire you take maintenance in-house. The Agency could take over the premises, equipment and staff of the outgoing contractor. A common set of standards and reporting could then be maintained across the network. Ideas that work in one area could be quickly shared across the network. Changes in working practices and new technology could be implemented without having to renegotiate terms with a myriad of contractors. A layer of management would be removed. The Agency would get closer to the customer.

## **Safe roadside cleaning**

I share the Agency's concern about operator safety. What puzzles me however is that whenever concerns about motorway litter are raised operator safety is invariably brought up, seemingly as an excuse.

This was nicely illustrated on [BBC1's "Don't Mess With Me \(5\)" presented by Margaret Mountford and broadcast on 28th November 2014](#) . Your colleague, Tim Lyver, said that litter-picking on motorways is so dangerous that you don't let your contractors do it without lane closures.

However, most of the litter on your network lies on verges protected by hard shoulders. These are routinely (but not routinely enough) and safely, litter-picked without lane closures.

Also, concerns about safety cannot explain why litter is allowed to accumulate where it can be safely and easily accessed, for example at [J10 of the M60 as reported by Ford Desmoineaux](#).

Mr Lyver is shown at a badly littered trunk road lay-by. One must ask why this safely accessible location had been allowed to deteriorate to this level.

The worse black spots are often the last few yards at the bottom of "off" slip roads. Again they can be safely litter-picked without traffic management when the traffic is brought to a halt at the lights.

On this point can you tell me if it is possible for traffic lights to be held at red, say for 5 minutes, while a team of operatives carry out a cleansing blitz on the backed-up slip road? If not, could an operative hold up the traffic with a hand held stop sign while the work is carried out? I am not talking about cleaning the whole length of the slip but just the bottom section.

Balfour Beatty Mott MacDonald seem to be experiencing [safety issues with vegetation](#). Should vegetation not be maintained so that litter-pickers have on-going access at least to the land nearest the road? Could not the operatives be given spiked footwear to enable them to walk on long grass without slipping?

Are there not safe working procedures laid down covering each type of road-side environment?

## **Designing to avoid traffic management**

Where there is no hard shoulder I assume it would be safe for an operative to litter pick a verge if (1) he had a safe footing and (2) there was some space, and a crash barrier, between him and the traffic. If this is correct why not create, or design-in at the outset, a safe pathway from which litter could be picked on these sections of motorway? I would appreciate your thoughts on this.

## **Area 10**

Please refer to my post [Highways Agency Area 10 – Dramatic decline in litter collection](#). I have not been up to this Area which includes the Manchester and Liverpool conurbation since January of last year. However I have received the following relevant feedback via my [Messages Of Support](#) page since the beginning of 2015:

Yesterday I travelled along the M60 clockwise from junction 2 to junction 15.... There was also a considerable amount of litter on the grass verges ..... the slip road from the roundabout in

Cheadle to the M60 (road A5601) also had a considerable amount of litter on the verges. –  
*Michael Pease.*

When I drove down the M67 from Denton to Stockport station on Monday it was incredibly filthy  
- *Andrew Gwynne MP.*

Throughout January 2015 I have observed unacceptable accumulations of litter at the following locations:

M60 – All junction slip roads from J9 to J13 inclusive

M62 – Central reserve (particularly) between J6 and J13

M57 -Slip roads at Junction 2

*Terry Dean FICE.*

Litter M6... Peter, can you please help me to find out how to make an online COMPLAINT (not enquiry!!!) regarding litter on the M6? – *Arthur.*

Ford Desmoineaux's [photographs of J10 of the M60](#) referred to under "Safe roadside cleaning" were taken in December.

This would all seem to imply that no effective remedial action has been taken to clean up this Area. How will this be rectified?

## **Area 2**

[Bob Lane has described J2 of the M2 as being like a rubbish tip.](#) The Highways Agency appears to have simply forwarded his complaint to the contractor. The contractor's claim to have completely cleaned the junction was shown to be wrong. Only after Mr Lane had taken your Asset Manager for Kent, to see for himself was remedial action taken.

I recommend that all complaints to the Highways Agency are dealt with by the Agency and not passed on to the contractor for them to deal with the complainant.

## **Other Highways Agency Areas**

As we turned off the M25 at junction 30 we were appalled at the filthy state of all the verges and the central barrier area...There was, what must be tonnes of litter of every description, both on all the verges and blowing in the trees.. I have spoken to someone who has informed me that there is a Veolia landfill site near Pitsea Marshes and he has witnessed lorries coming from London on the A13 not having any netting and all their rubbish flying everywhere.... *Lesley Stradwick*

Keep up the good work .... please keep going as the roadsides are an absolute disgrace .... also Thurrock (A13 near M25) ..... where the amount of rubbish is almost laughable and never ever touched *Adrian Brown*

Keep it up! I watched your video clip. You have restored my faith in humanity. *Elizabeth Haynes*

Junction 11 on the M20 is in desperate need of attention due to the amount of rubbish, both on the main roundabout and surrounding roads leading to it - *Tim Odell.*

Sad to see so much litter all over the side hard shoulder of the Motorways.... it frustrates me and saddens me to see so much rubbish everywhere on the M4 - *Ayesha Rahmani.*

Last weekend, I travelled northbound on the M1 from junctions 1 to 9 .... As usual, I was dismayed by the chronically littered state of the grass verges on approximately 80 per cent of the route –  
*CM*

I've just tried to report litter on the M4 ... I don't understand why the problem isn't being taken seriously and no one will take ownership - *Louise Rothschild*.

I have just driven along the M4 from Bristol to the M25 junction and cannot believe how uniformly and heavily littered the east bound verge is. The worst roundabout for litter in my recent experience is the entry to South Mimms Services on the M25 north side...The impression our UK road infrastructure gives to visitors is truly appalling and it of course not just litter but poor road surfaces and road signs which are bent, broken, worn out, missing, filthy and unreadable -  
*Mike Everson*

@CleanHighways have you saw the M62 are the Yorkshire moores and further, junctions are terrible @highwaysagency should be ashamed *Kieron Gordon*

### **The Highways Agency's All Purpose Trunk Roads – Liaising with Local Authorities**

As you know the relevant local authority is responsible for cleaning most of these roads while the Agency carries out all other maintenance tasks. Bizarrely the local authority has to clear the litter before your contractor goes in to cut the grass.

In response to a question from Christopher Chope MP in 2012 about litter on the A31 in Dorset the then roads minister, Mike Penning MP, said that "*The Highways Agency regularly monitors cleanliness of the all purpose trunk roads*". He went on to say "*Where the standards set by the Environmental Protection Act are not being met, and no contact has been received regarding sharing traffic management, the Agency will write to the relevant authority asking for appropriate action to be taken*".

These inspections and the subsequent communications do not seem to be very effective as many local authorities are unaware of their responsibility to clean these roads. These include:

North East Lincolnshire Council (A180)  
West Berkshire Council (A34)  
Basingstoke and Deane Borough Council (A34) and  
Durham County Council (A66)

Brian Kitching, Durham County Council's Policy & Asset Manager, Strategic Highways has recently argued to Carl Pearson that their position was supported by the Environmental Protection Act. [I have had to write to him to point out the error of his ways](#). Surely it should not be down to me to do this.

For more information on this please go to: [Councils unaware of responsibility to clean trunk roads and motorway roundabouts](#)

The poor liaison between local authorities was highlighted by Sean Lawson Head of Environmental Services at Rugby Borough Council, a member of the Warwickshire Waste Partnership. He was questioned by Simon Danczuk MP in [November 2014 at the Communities and Local Government Commons Select Committee hearing into Litter](#):

Q89 Simon Danczuk: ....*How do you work with the Highways Agency in terms of ensuring that motorway trunk roads are kept clean?*

Sean Lawson: *We find it a nightmare*

Simon Danczuk: *Why is that?*

Sean Lawson: *It is because they do not communicate with us. They produce a wonderful glossy strategy document that says how they will work with local authorities, but we get very little engagement. We find that there is a road closure on by travelling down the road. We could have done a lot of work. We arrange with them to go out and do work when they have road closures on, and they don't turn up. I have two or three crews out there at midnight waiting to clean a highway and they are not there.*

Simon Danczuk: *They are just wasting council tax payers' money.*

Sean Lawson: Yes

Sam Beattie has just sent me these "horror" videos showing the condition of the verge <http://youtu.be/6cDEf3ZbQrM> and one of the lay-bys <http://youtu.be/MO5yXf2kmcE> on the A64 between Tadcaster and York. Other relevant feed-back in 2015 includes:

A2 between Faversham and Dover. Depressed by Litter. I had to go down the A2 from Brenley Roundabout to Dover today, and my wife and I were appalled at the vast amount of litter on the sides of the A2 in both directions, in particular the laybys - *John Agate*

A2 Faversham to Dover Docks. The build-up of litter on this major road looks appalling *Tim Gray*

Since the beginning of 2015 I have made numerous road trips using the A1 from the east of Leeds down to the M25. It is increasingly apparent that the accumulation of rubbish both by the side of the road and in the central reservation has increased and, in fact, there is hardly a break in such accumulations for mile upon mile.... I have travelled this route many times over a 20 year period and the evidence of neglect (highways funding issues?) seems to be increasing. – *John Hunter*

**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.**

### **Litter from waste transport vehicles**

In July 2014 David Brewster one of your Executive Directors reported that a large number of bulk waste lorries were using the M32 and the loss of material from them was exacerbating the litter problem. He said the issue would be addressed with the companies involved. Can you let me know what happened? [Can you let me have copies of the correspondence with the companies?](#)

Please refer the above to the reports from Lesley Stradwick and Adrian Brown under "Other Highways Agency Areas" about a similar situation on the A13. The section in question is part of the network where you have the responsibility for cleansing.

Dean, an HGV driver says in reference to roadside litter that "*most of it comes from the ever increasing number of bulk waste vehicles that are badly loaded and incorrectly secured/ sheeted*". Interestingly he has video evidence of this taken on his dash board camera. I have asked for copies of the files and will post them [here](#).

I have myself witnessed waste falling from a bulk waste transporter on the M4 and agree with Dean's assessment that this is a major source of roadside litter.

The operators of such vehicles have a duty of care under [EPA S34 – Duty of care as respects waste](#), any breach of which is an offence.

The Agency should take a leaf out of [South Gloucestershire Council's book and prosecute these companies](#). Will you investigate the situation on the A13 and consider prosecuting the offenders?

Are matters getting worse?

... something has definitely changed in the last few months. It has never been this bad in the 25 years I've spent travelling, daily, around the UK. Today I did a run west along the M4 from Reading to Chieveley then north on the A34 to join the M40 - cross country on the A43 to the M1 - off at the M18 to the A1 and litter is continuous in a way that I have never witnessed before.

*John Hunter*

I am an HGV driver and have noticed a massive increase in the amount of roadside litter in the last few years *Dean*

What do your own surveys show?

Mr Dalton, I hope this report is of help to you in your final months at the Agency.

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