

From: Peter Silverman
Sent: 01 February 2015 18:44
To: 'brian.kitchingXXdurham.gov.uk'
Cc: 'Carl Pearson'
Subject: Cleansing of A66 Durham County Council

Dear Mr Kitching,

Carl Pearson has passed on to me your e-mail of 12th January which I have reproduced below.

Your argument had me fooled for a while but on closer examination I realised it was fallacious.

EPA S86 (9) says: *“Every highway maintainable at the public expense other than a trunk road which is a special road is a “relevant highway” and the local authority which is, for the purposes of this Part, “responsible” for so much of it as lies within its area is, subject to any order under subsection (11) below... the council of the district..”*

“This Part” refers to EPA Part IV – Litter Etc.

The only relevant highways for which the Sec of State is responsible for cleaning are those trunk roads where that responsibility has been transferred to him under S86 (11) from the local authority. This is not the case with the A66.

EPA S89 (1) (a) deals with relevant highways which are the responsibility of each local authority.
EPA S89 (1) (b) deals with relevant highways which are the responsibility of the Sec of State

All in the context of EPA Part IV Litter.

I discuss this at length at

www.cleanhighways.co.uk/highways-agency/responsibility-for-cleaning-highways-englands-trunk-roads

Brian, do you agree with this analysis?

Kind regards

Peter Silverman
www.cleanhighways.co.uk

From: Brian Kitching [<mailto:Brian.KitchingXXdurham.gov.uk>]
Sent: 12 January 2015 09:53
To: Carl Pearson
Cc: Brian Buckley
Subject: RE: Responsibility A66

Hi Carl

Please find below an extract from the Environmental Protection Act 1990 which clearly puts the responsibility firmly at the door of the Secretary of State (Highways Agency) and therefore this

should be carried out by their agents Aone+. I have highlighted the relevant text which I think is conclusive.

89 Duty to keep land and highways clear of litter etc.

1) It shall be the duty of—

- a) each local authority, as respects any relevant highway or, in Scotland, relevant road for which it is responsible,
- b) the Secretary of State, as respects any trunk road which is a special road **and any relevant highway or relevant road for which he is responsible,**
- c) each principal litter authority, as respects its relevant land,
- d) the appropriate Crown authority, as respects its relevant Crown land,
- e) each designated statutory undertaker, as respects its relevant land, **[F1and]**
- f) the governing body of each designated educational institution or in Scotland such body or, as the case may be, the education authority responsible for the management of the institution, as respects its relevant land, **[F2and**
- g) the occupier of any relevant land within a litter control area of a local authority, **]**

to ensure that the land is, so far as is practicable, kept clear of litter and refuse.

(2) Subject to subsection (6) below, it shall also be the duty of—

- a) each local authority, as respects any relevant highway or relevant road for which it is responsible,
- b) the Secretary of State, as respects any trunk road which is a special road and any relevant highway or relevant road for which he is responsible, to ensure that the highway or road is, so far as is practicable, kept clean.

Regards

Brian

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