

**From:** Reardon, Tim General Counsel Highways England  
**Sent:** 20 April 2016 13:55  
**To:** Peter Silverman  
**Cc:** Kilkenny, Jackie  
**Subject:** Feedback on litter 9

Dear Mr Silverman

I am responding to the specific point about the correct interpretation of Highways England's legal duties under section 89(1) of the Environmental Protection Act 1990.

You correctly underline in your email a number of key words in section 89(1), but it is also worth highlighting that the phrase "so far as is practicable". In determining the standard of litter clearance required, we have to have regard to the character and use of the land as well as the measures which are practicable in the circumstances. These words in section 89(3) are an important clarification recognising a number of practical realities. First, that in carrying out litter and refuse clearance there are health and safety considerations both for Highways England and contractors' employees, as well as road users. Secondly, there are time and cost considerations which need to be taken into account. This is obviously important where there are safety risks; but it is also important in terms of ensuring the most efficient use of resources. The latter, for example, will tend to favour carrying out litter and refuse clearance at a particular location as part of a programme of routine maintenance rather than as a separate exercise. This reflects, for example, the DEFRA Code of Practice on Litter and Refuse with which we look to comply.

The incidents you highlight have been noted for the purposes of the South East Route Maintenance Plan (although the item on the M25/A1 slip may be traffic counting equipment which has become dislodged from its base), and we are reminding the local authority about the A404.

Litter is a general problem that needs to be tackled at source and this cannot be achieved without working together. In this regard, we are working with stakeholders including local authorities, but we are also addressing driver education and driver behaviour.

You mention spillages from waste transport vehicles. You may wish to know that in a recent joint exercise with the Environment Agency 13 fixed penalty notices were issued in one day for vehicles with insecure loads depositing waste on the trunk road network. Highways England will be working with the Agency to repeat the exercise in due course.

Could I suggest that you direct any future queries in this area to Highways England's Litter Action Group. Jackie Kilkenny, to whom I have copied this email, is the contact. Her details are [Jackie.Kilkenny@highwaysengland.co.uk](mailto:Jackie.Kilkenny@highwaysengland.co.uk) and her telephone number is 0300 470 5242.

Yours sincerely

Tim Reardon

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