

From: Peter Silverman
Sent: 28 September 2016 13:59
To: Peter Antolik Office of Rail and Road
Cc: Prof. Stephen Glaister - Chairman ORR; Michael Pease
Subject: ORR's engagement with HE over litter

Peter,

At our recent meeting I expressed my concern that the ORR had not provided Michael Pease with answers to his FOI inquiry regarding your dealings with HE over litter. I felt there was public interest in knowing how this was being handled.

Since then I have been provided with [the relevant information by HE](#) .

Apparently you raised the issue with HE on 8th October 2015 asking that appropriate steps to deal with litter were included in Highways England's Environment Strategy which had been promised for March 2016. On November 5th you asked HE to demonstrate they were complying with the (Environmental Protection) Act.

In December you received a draft of HE's Environmental Strategy but it did not include any reference to litter.

On 4th Feb 2016 you received an 8 page submission on litter from HE with a myriad of attachments. You responded by saying it did not provide sufficient assurance on HE's approach to litter / meetings its legal obligations. The issue would remain, you said, on your Watch List.

On [13th June you wrote to HE](#) listing the actions they need to take. Later you said you will track HE's progress against these actions and will consider adding litter management back on the Watch List/Roads Escalator should this progress not be achieved. (It seemed to have dropped off the list!).

On [29th July you received a response](#) from HE.

Peter, what is the current situation? Have you responded to HE? If so, or when you do so, could you provide me with a copy? Are they back on your watch list?

In any event this correspondence / documentation based process seems futile. You are generating paper but having no impact on the real world.

For example, you have asked HE to review the provisions of its contracts with service providers and to consider whether any amendments need to be made to meet its duties under the EPA. They have replied saying that they routinely review their contractual arrangements whilst balancing the needs against available funding and value for money. Where does that get us? The litter continues to mount up.

In my opinion you just need to:

1. Establish via physical inspections of the network whether or not HE are complying with their statutory duty to ensure, so far as is practicable, that they keep their network clear of litter and refuse (EPA S89(1)).
2. If they are not, which I believe is clearly the case, you should point this out to HE and ask them to draw up an action plan to rectify the situation including any additional funding they would need to become compliant.

I hope this is of help.

Kind regards

Peter Silverman

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