



Department  
for Transport

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Our Ref: 212188

Your Ref:

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Peter Silverman

Sent via email to:

[p@petersilverman.com](mailto:p@petersilverman.com)

Dear Mr Silverman

Thank you for your email dated the 8 August to Bernadette Kelly, Permanent Secretary at the Department for Transport. I have been asked to reply on behalf of the Department.

Firstly I would like to apologise for the delay in replying to you. I will respond to specific points you have raised in order.

### **M40 J1 / A40 Denham Bucks**

Your questions regarding the M40 J1 / A40 Denham Bucks and the steps being taken by the Department to ensure Highways England fulfils its statutory duty have been addressed in previous correspondence. As such we do not have any further information we can provide about this. I reiterate that litter and debris was cleared completed on the M25 DBFO section of the A40 (between junction 1 of the M40 and the boundary with the Transport for London network) on 20 and 21 February 2017. This resulted in 12 bags of litter from the westbound carriageway and 11 bags of litter from the eastbound carriageway being collected.

The M40 DBFO has a street lighting replacement scheme in progress on their section of network. This prevents Highways England from installing temporary traffic management measures, which are required to enable them to carry out routine maintenance works, such as litter picking. The scheme requires offside lane closures, but nearside lane closures are required for the workforce to carry out litter clearance safely.

On completion of these improvement works, we will install lane closures to carry out routine maintenance which will include litter and debris clearance.

### **Steps being taken to ensure Highways England fulfils its duty**

Our Departmental reply of 6 April covered this point and subsequent correspondence with Highways England (**EIR P0015091**) provided further information.

### **HE dumbs down its EPA S89 duty**

You have indicated that our Departmental reply of 6 April did not address your second concern, that being, the legislative duty of Highways England.

Highways England does have a statutory duty in accordance with the Environmental Protection Act (EPA) S89. In determining the standard of litter clearance required, the Duty Body has to have regard to the character and use of the land as well as the measures which are practicable in the circumstances. On motorways, where safety issues are paramount, it is recommended that litter and refuse clearance is carried out at a particular location as part of a programme of routine maintenance, rather than as a separate exercise.

### **A strategy of misinformation?**

Our Departmental reply of 6 April covered this point and subsequent correspondence with Highways England (**EIR P0015091**) provided further information. However, the Department will consider the case for introducing a performance indicator on litter as part of the ongoing development of the second Road Investment Strategy.

### **Bricket Wood crossing of the A405**

Litter and debris clearance at A405 Bricket Wood Crossing, Hertfordshire, was completed on 9 August 2017, 17 bags of litter were collected from the crossing.

### **Highways England Stakeholder Advisory Panel**

Highways England has reviewed its existing stakeholder advisory panel arrangements. The current arrangements will be supplemented with a strategic stakeholder advisory panel to advise the Board who are not looking for new members at present.

### **Prosecution of waste transporters who spill their loads onto the Highways England network**

Highways England is not a litter authority and whilst it does have the power to bring a prosecution in an individual case it works collaboratively with other organisations like the Police or the Traffic Commissioner who have the required powers to issue a Fixed Penalty Notice.

### **Cleansing of Highways England trunk roads (APTRe) – transfer of responsibility**

The Government will commission and publish an independent assessment of road cleanliness and publish cleanliness reviews by authority. We will then set a deadline for underperforming authorities to improve their performance within this Parliament. We are therefore not at a stage where we are able to answer your more detailed question about how cases would be decided.

By the end of this Parliament, the Government will also review the mechanism by which councils and other land-managers can be held to account for maintaining their land to the standards set out in the Code of Practice, considering a range of options to make it easier for citizens to hold land-managers to account for delivering their responsibilities. We will say more on this issue in due course.

### **A13 Essex – closure of Grays lay-by**

You have asserted that on the 15 September that the lay-bys along this stretch of the A13 were defaced by large volumes of litter. I can confirm that there are no longer any lay-bys on the section of the A13 which is included within the M25 DBFO network. The proposal to permanently close the A13 Grays lay-by in Essex was developed by a joint decision by the Connect Plus Services Route Performance Team, Thurrock Council and Essex Police, and was approved by the Highways England Asset Development Manager (please see redacted attachments).

Highways England made the decision, using a Permanent Traffic Regulation Order. This was seen as the only option in which to combat the high levels of waste and fly tipping that was occurring. The risk to public health due to human waste being deposited in the lay-bys and the miss-use of the lay-bys as an unauthorised lorry park, had led to safety concerns for the travelling public.

Consideration was given to alternative welfare areas and it was the view of both Highways England and Thurrock Council that there was ample provision via the many service areas and truck stops situated within Thurrock. The closure of lay-bys is seen as the last resort and would only be considered if no alternative course of action was seen as having an effect and only where there are alternative arrangements for welfare.

I hope that your questions have been addressed. The department takes litter on Britain's road network very seriously, and we will continue to work closely with our partners, including local authorities, Highways England and Defra.

Yours sincerely  
Andrew Appiah