

Extract from Local Government Association

Environment, Economy, Housing and Transport Board

Meeting of 5th January 2017

[Full meeting details](#)

Page 15

Environment, Economy, Housing and Transport Board

5 January 2017

Clearing litter from Highways England trunk roads Purpose

For discussion.

Summary

The Board will receive a presentation from Dover District Council, which is seeking support from the Board for legislative changes that would remove their responsibility to keep trunk roads free from litter. The following representatives from the council will attend the Board meeting to present their proposal: Cllr Nigel Collor (Portfolio Holder for Access and Licensing), Cllr Nick Kenton (Portfolio Holder for Environment, Waste and Planning), and Roger Walton (Director of Environment and Corporate Assets at Dover District Council and Head of Environmental Services at Shepway DC). Attached is a draft motion previously submitted to the LGA General Assembly (Appendix A) as well as a map showing responsibility for clearing litter from motorways and all-purpose trunk roads (Appendix B).

Agenda Item 4



Recommendation

That the Board considers the presentation from Dover representatives and decides further action.

Action

Officers to progress in line with members' directions.

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Environment, Economy, Housing and Transport Board

5 January 2017

Clearing litter from Highways England trunk roads

Background

1. The LGA was approached by Dover District Council in relation to councils' responsibilities for clearing litter on Highways England trunk roads, with a motion for consideration by the LGA General Assembly. The motion was endorsed by members of the East Kent Regeneration Board, which includes Dover, Ashford, Canterbury, Shepway, Thanet and Kent County Council, although concerns are shared by other councils across the country. The LGA's Leadership Board reviewed the request for a motion and proposed that it would be more appropriate for the issue to be discussed by the LGA's EEHT Board.
2. The motion is appended to this report at Appendix A and members are advised to refer to it for their consideration. For ease the main points are summarised here:
 1. 2.1. Under Section 89 of the Environmental Protection Act 1990, councils have a duty to keep land and highways clear of litter; this extends to clearing litter on Highways England's (HE) trunk roads (Appendix B), as well as local roads but not motorways.
 2. 2.2. The concern for Dover District Council and other litter authorities is that there are unfair additional operational burdens and costs for those councils who have HE trunk roads within their local authority boundary.
 3. 2.3. The representatives from Dover DC will be able to clarify the exact nature of the additional cost burdens. However, LGA officers are aware from other areas that one significant factor is the cost of traffic management for what are high traffic volume routes. For example:
 1. 2.3.1 Councils have to liaise with Highways England, or whoever is managing their roads on their behalf, in order to cooperate on road safety (e.g. in closing down lanes for cleaning) and are charged significant costs for assistance in putting in place traffic controls.
 2. 2.3.2 Cleaning operations are usually limited to night time working only which means councils have to make plans to adjust routine maintenance schedules as work can only be done at night or early morning on weekends.
 3. 2.3.3 Access to the central reservation is a big challenge – usually necessitating lanes to be closed off which requires work at night or early morning at weekends.

Issues

3. LGA's written submission to the Environment, Food and Rural Affairs Committee inquiry on Waste Crime in May 2015 called for:

3.1. The road closure function of the Highways Agency to be combined with that of clearance. It would enable a more consistent approach along the length of a particular road, rather than just the section within a council area. Also, a single body with a national focus would also have a more effective role on prevention through sole responsibility for campaigns to reduce highway littering from vehicles.

4. Under s86(11) of the Act it appears that there is a provision allowing the SoS to transfer the responsibility for cleansing to a different authority:

4.1. "The Secretary of State may, by order, as respects relevant highways or relevant roads, relevant highways or relevant roads of any class or any part of a relevant highway or relevant road specified in the order, transfer the responsibility for the discharge of the duties imposed by section 89 below from the local authority to the highway or roads authority; but he shall not make an order under this subsection unless-

5. This could be a more ready-made option for affected councils to pursue however, it is not apparent that any such transfers have taken place and also whether the change from the Highways Agency to Highways England has affected the status of the Secretary of State as a roads authority.
6. Highways England are aware of the issue and LGA officials understand that there is guidance to be issued to HE regional service teams to facilitate their working with local authority teams, although it is not clear what impact this will have in practice. Defra have set up a working group to look at vehicle littering as part of their work to develop a new national Litter Strategy, expected early in 2017. The working group are looking at existing good practice in partnership working, including the East Midlands.

Implications for Wales

7. Transport policy is devolved to the Welsh Assembly; this is an English debate and the WLGA lead on representing the interests of Welsh local authorities.

Financial Implications

8. There are no financial implications for the LGA implied in the content above.

Agenda Item 4

Environment, Economy, Housing and Transport Board

5 January 2017

1. (a) (except where he is the highway or roads authority) he is requested to do so by the highway or roads authority;
2. (b) he consults the local authority; and
3. (c) it appears to him to be necessary or expedient to do so in order to prevent or minimise interference with the passage or with the safety of traffic along the highway in question.”

Page 19

5 January 2017

Draft motion for LGA General Assembly – July 2017 Background

Appendix A

Agenda Item 4a



Environment, Economy, Housing and Transport Board

1. Section 89 of the Environmental Protection Act 1990, sets out the various responsibilities with regard to the “Duty to keep land and highways clear of litter”, with the responsibility to ensure that the highway or road is, so far as is practicable, kept clean split between:

1.1. Each local authority, as respects any relevant highway or relevant road for which it is responsible.

1.2. 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.

(Special Roads are roads on which certain types of traffic are prohibited, under the Highways Act 1980. All motorways are Special Roads, together with some high- grade dual carriageways. It is understood that the only non-motorway special road that has been identified is the A282 in Essex and Kent, between M25 junction 30 and south of M25 junction 1b. This section of road includes the Dartford – Thurrock River Crossing.)

Issue

2. The operational impact of this arrangement is that the simple designation of the road can mean that the burden and cost of keeping the highway and adjacent verges clear of litter on the strategic road network falls unfairly on some local authorities. For example within Kent

responsibility for cleaning the M2 and M20 rests with Highways England acting on behalf of the Secretary of State whereas cleaning the A2 and A20, both strategic dual carriageways leading to Dover, become the responsibility of the individual authorities concerned.

Proposal

3. It is proposed that the LGA should lobby Government to require them to amend the legislation and place the duty to keep land and highways clear of litter on all trunk roads with the Secretary of State alone.