PART 3

NAT

Confidential Filing

The Litter Problem

UK 2000

Environmental Protection Bill

ENVIRONMENTAL AFFAIRS

Part 1: Dec 85

Part 3: Aug 90

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~9.8.90~~							
~~3.9.90~~							
~~17.10.90~~							
~~18.10.90~~							
~~16.11.90~~							
~~19.11.90~~							
~~12.2.91~~							
~~8.3.91~~							
~~6.12.91~~							
~~22.1.92~~							
~~5.4.93~~ 12/6/93							

PREM 19/4112

S 3009

Series Closed

HMSO Dd8953031 6/88 C60 GP2265 CCN13412 (3932)

Department of the Environment
2 Marsham Street
London SW1P 3EB

Telephone 071 276 3440

Minister for the Environment and Countryside

TIM YEO MP

H/PSO/12480/93

11 JUN 1993

Thank you for your letter of 6 May about the National Spring Clean. I am replying in John Gummer's absence.

I am of course delighted to hear of the very positive efforts that your Department and others are making in supporting the National Spring Clean. In many cases it is clear these go wider than was intimated by the Tidy Britain Group.

I was concerned to hear that some requests to the Group for further information had met with unsatisfactory responses. My officials will raise this in their discussions with the Group on the outcome of the campaign and I hope that we can avoid this sort of problem in the future. As Michael Howard said in his earlier letter, what Graham Ashworth has told him would be particularly helpful from colleagues is Ministerial participation in appropriate publicity events. I hope that TBG will be able to let you have, in good time, well constructed proposals for such events in the future.

I am hopeful that results will show that this year's National Spring Clean campaign will once again prove to have been a success. Litter is a matter of great concern to us all and it is important that the Government actively supports events such as this. You and other colleagues are clearly playing your part and I am grateful.

I am copying this to John Patten, David Hunt, Gillian Shephard, Peter Brooke, Virginia Bottomley, Michael Heseltine, John Cope, Robert Cranborne, Oliver Henley and Peter Lloyd, and to the Prime Minister and Sir Robin Butler.

The Rt Hon John MacGregor OBE MP

100%
recycled paper

EN A/A: Letter 1993

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ENV ARK: Litter
PT 3

53/2/mr Cope/2a.20.4

CEK

nbm

PAYMASTER GENERAL

Treasury Chambers, Parliament Street,
London, SW1P 3AG

The Rt Hon Michael Howard QC MP
Secretary of State for the Environment
Department of Environment
2 Marsham Street
LONDON
SW1P 3EB

21 April 1993

Dear Michael

LITTER - NATIONAL SPRING CLEAN

Thank you for copying to Norman Lamont your letter of 24 March addressed to John MacGregor about the National Spring Clean. I am sorry that I have not been able to respond earlier.

You asked recipients of your letter to consider what action could be taken during the National Spring Clean to raise its profile. The Chancellor's Departments are of course happy to support the National Spring Clean and have undertaken a variety of measures to ensure that it is given suitable emphasis. For example, the current edition of the Treasury in-house magazine chequerboard has an article requesting staff to respond positively and to come forward with any helpful ideas. Posters are on display and staff have been requested to make a special effort generally. In the longer term we are trying to devise procedures to reduce the amount of waste paper which the Department generates.

Both Customs and Excise and the Inland Revenue have also encouraged their staff to make a special effort. Customs for example have written to each of their regional managers and estate managers drawing attention to their obligations under the Environmental Protection Act 1990 and to your concerns. A copy of the code of practice has been sent to each regional manager and they have been asked to include action taken under the Act in their environmental strategies. Customs' management assurance systems will cover environmental protection policy matters.

I hope that this reassures you that we are taking the Tidy Britain Group seriously and will help them, when we can, to achieve their objectives. It would, however, have been helpful if the original letter from the Tidy Britain Group in October 1992 had made it

more clear that help was required for the 1993 campaign. The main bulk of the letter was the report for 1992 and the dates for the 1993 campaign were all but lost.

I am copying this letter to the recipients of yours.

Yours ever

John

THE RT HON SIR JOHN COPE MP

ENV AFFAIRS = L Hln PE3

DEPARTMENT OF NATIONAL HERITAGE
Horse Guards Road, London SW1P 3AL
Telephone: 071-270 5925
Facsimile: 071-270 6026

From the Secretary of State for National Heritage
THE RT. HON. PETER BROOKE C.H. MP

C93/2022/3404

The Rt Hon Michael Howard QC MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

20 April 1993

Dear Michael,

LITTER - NATIONAL SPRING CLEAN

I have seen your letter of 24 March to John MacGregor about the Tidy Britain Group's (TBG) National Spring Clean campaign.

2. I agree that the momentum of the campaign against litter needs to be maintained and I welcome the continuing efforts that the TBG are making. I believe that the main contribution my Department can make is in relation to tourism, through the English Tourist Board (ETB) and the British Tourist Authority (BTA). As you will know, given your former tourism policy responsibilities, both Boards have worked closely with the TBG for many years, as have the 11 Regional Tourist Boards.

3. Graham Ashworth, the TBG Director General, sits on the BTA development committee, and the BTA Chief Executive had a seat on the TBG's main Council until March this year. I hope that Michael Medlicott's successor will also be invited to join the Council. These links allow the two organisations to discuss important issues, such as tackling the litter problems that might ensue if the Olympics were to come to Manchester.

4. On the domestic front, the ETB is closely involved with the promotion of the European Blue Flag scheme for beaches and supports TBG initiatives such as "Britain in Bloom" and the Seaside Awards scheme. But the ETB has devolved many of its functions in recent years and most of the work on litter is done at local level through the RTBs.

5. For example, the London Tourist Board (LTB) in 1990 set up, in association with the TBG, the London Against Litter Consortium, whose initiatives include displays promoting a litter-free London at stations and major London events. LTB has also secured sponsorship from McDonald's Restaurants for its London in Bloom competition, which this year will be launched at six locations to generate greater local media coverage and greater participation at grass roots level.

6. It is encouraging that research has shown a considerable improvement in the amount of litter on London's streets, so much so that London was second only to Berne when equivalent areas in six European capitals were compared in a recent study.

7. Another active RTB is the Southern Tourist Board (STB), which encourages community involvement through awards to entrants who have achieved excellence in a particular section of its "In Bloom" competition; these include best treatment of roadsides and roundabouts, best anti-litter initiative, best environmental initiative and so on. The Board reports that many local authorities within the region first secure community participation through the high-profile National Spring Clean Week and then use that as a springboard for setting up In Bloom committees and entering the In Bloom competition. Thus civic pride and the spirit of participation are fostered, which is very good news. The STB have also been actively involved with the Isle of Wight's Island Pride Campaign, which has included a number of successful Clean Up Campaigns and Days of Action.

8. Whilst there is no room for complacency, the UK's efforts to shed its "dirty man of Europe" image have been recognised and appreciated by our visitors from overseas. The BTA's 1992 Overseas Visitors Survey shows that over 90% of overseas visitors found our countryside, public parks and gardens 'clean' or 'very clean'; and 56% of respondents described the streets of London as 'clean' or 'very clean', compared with 44% two years ago. We have a good story to tell as far as tourism is concerned and some of the credit must go to the agencies grant-aided by my Department.

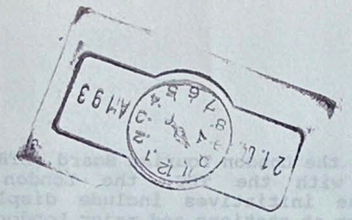
9. I am copying this letter to recipients of yours.

Yours ever

Peter

PETER BROOKE

ENV ARRANGES : Litter Pt 3



CcDH

dcDH

MAFF

Ministry of Agriculture, Fisheries and Food
Whitehall Place, London SW1A 2HH

From the Minister

nbpm

The Rt Hon Michael Howard QC MP
Secretary of State for the Environment
2 Marsham Street
London
SW1P 3EB

7 April 1993

Dear Secretary of State,

LITTER - NATIONAL SPRING CLEAN

Thank you for copying me your letter of 24 March to John MacGregor, seeking additional support for this year's National Spring Clean.

I am a little surprised to see that you are basing your assessment of Departments' support for the Spring Clean on responses to a fairly general letter from Professor Ashworth written over five months ago. In my response to that letter I noted that the Ministry is a firm supporter of these campaigns and that we would be doing all we could to build on previous efforts. This is rather different from saying that we would be restricting our thinking to staff participation as implied in the attachment to your letter. Indeed, I asked Professor Ashworth for specific ideas on how the Ministry could help and in particular how we might encourage farmers to participate.

In the absence of any response from the Tidy Britain Group to my request, we have been considering ourselves what we might do. As last year, we are alerting all staff to the event and encouraging them to participate: one clear up has already been arranged on the foreshore of the Thames near Parliament. Other longer term initiatives such as the sponsoring of litter bins (we sponsor four already in the vicinity of Westminster Abbey) are also being pursued. In addition, Lord Howe will be writing to the main farming bodies seeking their support for the Spring Clean. We have considered direct approaches to farmers but this would probably be counter-productive particularly just now when the industry has other preoccupations. Farmers feel with some justification that they are more sinned against than sinners when

/it comes to ...

it comes to litter in the countryside. I will, however, reflect on what else we might do to encourage their participation in the longer term. If you have any ideas yourself, I would be pleased to hear from you.

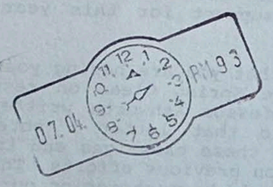
I am copying this letter to John Patten, Peter Lilley, Malcolm Rifkind, Gillian Shephard, Peter Brooke, Norman Lamont, Kenneth Clarke, Virginia Bottomley and Michael Heseltine, and to the Prime Minister and Sir Robin Butler.

Yours sincerely

E J Wardle

for JOHN GUMMER

Approved by the Minister and signed in his absence.



SECRETARY OF STATE FOR EDUCATION

SANCTUARY BUILDINGS GREAT SMITH STREET
WESTMINSTER LONDON SW1P 3BT
TELEPHONE 071 925 5000

The Rt Hon JOHN PATTEN MP

The Rt Hon Michael Howard QC MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

Dear Michael,

- 5 APR 1993

LITTER - NATIONAL SPRING CLEAN

Thank you for copying to me your letter of 24 March addressed to John MacGregor in which you were seeking a higher degree of commitment from Government Departments in the forthcoming National Spring Clean Campaign.

We are aware of the important work which the Tidy Britain Group undertakes each year with the National Spring Clean, and once again my Department has co-operated fully with them to help get this campaign message across to schools, teachers and governors through our March issue of Schools Update. Indeed, the Group has welcomed our response which, they have said, will give the campaign "a great boost". I enclose a copy of their letter to that effect. They have not asked us to contemplate undertaking any other action.

I note that you will be approaching some Ministerial colleagues to suggest specific events that they might be associated with: if you were to approach the Ministerial team here they would naturally consider your request in the light of their other diary commitments at that time. Perhaps I should mention that some of the Committee Stages of the Education Bill will take place in the Lords during the period of the campaign and this will inevitably place a limit on our involvement in specific events, but we are of course happy to consider what we can do.

I am copying this letter to the recipients of yours.

Yours ever, John

JOHN PATTEN

DFE

recycled paper

Attachment for Sofs letter

TIDY BRITAIN GROUP
THE PIER
WIGAN WN3 4EX
TEL: (0942) 824620
FAX: (0942) 824778

CO-ORDINATOR
ALISON PHILLIPS

HOTLINE
(0942) 826296

11 December 1992

Chris Kempson
Department of Education
Room 658 Sanctuary Buildings
Great Smith Street
London
SW1P 3BZ

Dear Chris

Many thanks for getting in touch about the National Spring Clean and for the Departments offer of support. It will be a great boost for the campaign to know that so many schools and colleges will be encouraged to participate in this way.

Further to our telephone conversation this morning, I enclose as promised a sheet of National Spring Clean 1993 logo bromides, an information/ideas sheet produced for schools, and a photograph.

If you need any more details, please don't hesitate to get in touch again.

Yours sincerely

Alison Phillips

Alison Phillips
National Co-ordinator

TIDY BRITAIN GROUP

PATRON:
HER MAJESTY QUEEN ELIZABETH
THE QUEEN MOTHER

PRESIDENT:
LORD PARRY OF NEYLAND

CHAIRMAN:
SIR ANTONY ACLAND,
GCMG KCVO

DIRECTOR-GENERAL:
PROFESSOR
GRAHAM ASHWORTH,
CBE DL

CHARITY No 205976
VAT REG. No 334 9829 08

recycled paper

070

cepx

2 MARSHAM STREET
LONDON SW1P 3EB
071-276 3000

My ref:

Your ref:

24 March 1993

The Rt Hon John MacGregor OBE MP
Secretary of State for Transport
Department of Transport
2 Marsham Street
LONDON
SW1

Dear Secretary of State,

LITTER - NATIONAL SPRING CLEAN

I believe that as a Government we are not doing enough to follow up the litter provisions in the Environmental Protection Act 1990. There is a good story to be told here, and cleaning up our streets is something which will produce a lot of support in the country. At the moment the Tidy Britain Group are trying very hard to keep the profile up, but the message I am getting from them is that they are not getting the support from Government that they need. I have concluded that we must now make a major effort to help.

The National Spring Clean Campaign is scheduled for 15-25 April. The Tidy Britain Group have approached all the Departments to whom I am writing with suggestions for what they might do. I attach an annex which indicates the responses they have had, which frankly I do not think are good enough. Could I please ask you and other recipients of this letter to review very carefully the suggestions that the Group have made to you, and see what higher profile activity you could take during the National Spring Clean. I might add that I shall shortly be coming to some Ministerial colleagues to suggest specific events that might be supported by Ministers who have an interest in particular geographical areas, but I believe individual Departments can also do a lot to help in their own policy areas.

I am copying this letter to John Patten, Peter Lilley, Malcolm Rifkind, Gillian Shephard, John Gummer, Peter Brooke, Norman Lamont, Kenneth Clarke, Virginia Bottomley and Michael Heseltine, and to the Prime Minister and Sir Robin Butler.

Yours sincerely,

for MICHAEL HOWARD
(Approved by the Secretary of State
and signed in his absence)

recycled paper

Responses from other Government Depts

DES - Photograph, logo and contact details in Schools Update magazine sent to all schools and school governors

DSS/Benefits Agency - offered to put up posters in all offices - awaiting response

MoD - alerted all RAF and Army camps to tell them to get involved. Material supplied for article in Focus magazine

Employment - will pass on information to all Estate Managers as last year

MAFF - will encourage involvement from staff again

National Heritage - message of support

Transport - Message of support

Treasury - acknowledgement of letter

Home Office - acknowledgement of letter

Health - sending list of contacts

Trade - message of support

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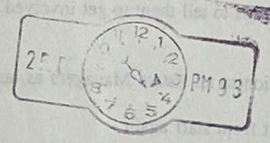

F.R. John

I think you are Mr Litter?

File

MR. ROSLING

ANTI-LITTER MEASURES

I attach a copy of a letter from the Welsh Office, further to Richard Shaw's letter of 30 December.

I understand that Mr. Heseltine was considering publicising the Citizen's Charter Seminar last week. We are also still expecting a copy of the Tidy Britain Group's report on the use by Councils of the powers available to them.

Should we now pursue this any further?

1. Carolyn Sinclair
2. Mark Adams.

Mark Adams
22 January 1992

a:\home\rosling.dsg

Not much point in pursuing the Welsh any further for now. Forms of abbreviation is near the purpose 'Green Charter' which needs to have a strong section on litter and especially the new rights given to people to seek court orders against councils where land is clear it up

JFH 31/1.

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 071-270 3000 (Switsfwrdd)
071-270 0549 (Llinell Union)
Fax: 071-270 0561

ODDI WRTH YSGRIFENNYDD
PREIFAT YSGRIFENNYDD
GWLADOL CYMRU

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 071-270 3000 (Switchboard)
071-270 0549 (Direct Line)
Fax: 071-270 0561

FROM THE PRIVATE SECRETARY
TO THE SECRETARY OF STATE
FOR WALES

CT/4023/91

20th January 1992

Dear William,

ANTI-LITTER MEASURES

I have seen a copy of Richard Shaw's letter of 30 December to you on the above, and would like to add a brief gloss on the position in Wales.

As in England, a number of initiatives have been taken by the Keep Wales Tidy Campaign (the Welsh regional arm of the tidy Britain Group) to promote and publicise the new anti-litter provisions of the Environmental Protection Act 1990. These include a very successful seminar for local authorities and other bodies on the new litter duties; active involvement by many organisations (including the Welsh Office) and individuals in the Welsh element of the National Spring Clean (which we hope can be successfully repeated this year); successful programmes of community action to help keep land clear of litter; and the wide distribution of the Tidy Britain Group's public information leaflet (in English, and soon in Welsh too). All of this has been backed up by significant media coverage.

/As Richard.....

As Richard says, hard evidence of the effects of the anti-litter measures will need to await the completion of the national cleanliness monitoring survey. However, according to Keep Wales Tidy Campaign, there has been a noticeable improvement already in certain urban areas of Wales. General community awareness of the new litter duties on local authorities has also bee heightened. Having said this, my Secretary of State agrees that the citizen's new rights in this area are probably not as well known as they might be. The new information leaflets The Tidy Britain Group have very recently produced should assist here, though Mr Hunt agrees that supporting measures, including possible action via the Citizen's Charter process, could well be helpful.

I am copying this letter to recipients of yours.

Yours ever,

MISS J C SIMPSON
PS/Secretary of State

W E Chapman Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1A OAA

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
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GWYDYR HOUSE
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Fax: 071-270 0561

FROM THE PRIVATE SECRETARY
TO THE SECRETARY OF STATE
FOR WALES

CT/4023/91

Short note to Alan Rosina

20th January 1992

Dear William,

ANTI-LITTER MEASURES

I have seen a copy of Richard Shaw's letter of 30 December to you on the above, and would like to add a brief gloss on the position in Wales.

As in England, a number of initiatives have been taken by the Keep Wales Tidy Campaign (the Welsh regional arm of the tidy Britain Group) to promote and publicise the new anti-litter provisions of the Environmental Protection Act 1990. These include a very successful seminar for local authorities and other bodies on the new litter duties; active involvement by many organisations (including the Welsh Office) and individuals in the Welsh element of the National Spring Clean (which we hope can be successfully repeated this year); successful programmes of community action to help keep land clear of litter; and the wide distribution of the Tidy Britain Group's public information leaflet (in English, and soon in Welsh too). All of this has been backed up by significant media coverage.

/As Richard.....

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I am copying this letter to recipients of yours.

Yours ever,

MISS J C SIMPSON
PS/Secretary of State

W E Chapman Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1A OAA

ENV AFF: Litter Pt3

→ file.

MR. ROSLING

I attach the reply from the Department of the Environment to my letter of 4 December about the new anti-litter measures. You will see that the Secretary of State will consider your idea for publicising the citizen's rights on litter as part of his preparation for the Citizen's Charter Seminar on 17 January. You will also see that the Department have commissioned some research on the extent to which councils are using their powers and that they expect a report early next year. Please let me know if you wish to take this further before either of those events.

William Chapman

No need to take further before the seminar. Things may be afterwards.

John Major
6/1.

William E. Chapman
31 December 1991

a:\parly\rosling.dsg

cc PO

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
071-276 3000

My ref: HS/PSO/33999/91
Your ref:

30 December 1991

William Chapman Esq
Private Secretary to
The Prime Minister
10 Downing Street
London SW1A OAA

Dear William

Thank you for your letter of 4 December, asking how the new anti-litter measures are working.

The main object of the anti-litter legislation introduced in April 1991 is to achieve cleaner streets and public places. That is the ultimate test of its success.

We commissioned a cleanliness survey in March 1991, to provide a pre-legislation baseline against which we could measure whether the legislation was producing a tidier Britain. We will be repeating the survey at the same time next year (to eliminate seasonal variations). Until then, we do not have an objective answer about the effectiveness of the new litter laws. However, there is plenty of circumstantial evidence that our initative is having the desired effect.

The general message from the Department's extensive contacts and the Tidy Britain Group's regional offices is that the overwhelming majority of local authorities have responded positively to the new duty to keep their land clear of litter. British Rail and London Underground are also making progress. Moreover, this does seem to be having an impact on the cleanliness of streets, parks and other places. That is not to say that the country is spotless. But there are signs of improvement, particularly in dirty urban areas.

Another element of our package is the citizen's right to take his or her council to court if they are not complying with their litter duties. The new litter laws, including citizen's rights, have received regular and substantial publicity in the local and regional Press. But although activists now know about their new right, it is still not as well-known among the general public as it should be.

We are taking steps to remedy the situation. The Department recently funded one million copies of a short litter leaflet, distributed by the Tidy Britain Group (TBG) - mainly through the large supermarket chains during September and October. Bulk orders from local authorities and environmental and civic groups mean that we will need to reprint - probably another four million copies. TBG have since produced two other leaflets, for members of the public who want more details about how to exercise their right.

Copies of these leaflets and our Litter Code of Practice are going to every Citizens Advice Bureau in the country. We are also discussing with TBG the idea of producing a short TV advertisement, giving the public information about their rights under the litter legislation - this would be shown by independent TV companies during unfilled commercial slots. We already benefit from this arrangement for three general TV fillers about litter. Finally, TBG will again be running their National Spring Clean campaign next April, which will provide another opportunity to publicise the new measures.

We agree that there could be scope for publicising the citizen's rights on litter as part of the Citizens Charter process, either through local authority initiatives or anything we do on the environment. My Secretary of State will consider this further as part of his preparation for the Citizens Charter seminar on 17 January.

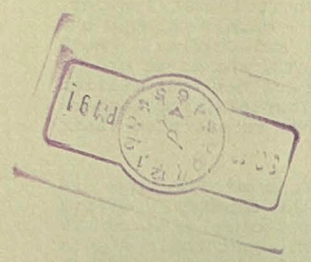
We will of course continue to monitor the effectiveness of the measures. We have also asked TBG to monitor the extent to which councils are using the different powers we have given them - for instance, how many are using their new power to issue fixed penalty notices for littering, along the lines pioneered by Westminster City Council. We expect a report early in the New Year which I will send to you.

I am copying this letter to James Hynd (Scottish Office), David Jennings (Welsh Office) and Alastair Bridges (HM Treasury).

Yours

Richard

RICHARD SHAW
Private Secretary



FCO
EA

C. Hom Ishaw

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

4 December 1991

The Prime Minister would be grateful to know how the new anti-litter measures are working. He has been told of concerns that few people are aware of the new legislation or their rights under it, which would of course impair the measures' effectiveness.

The Prime Minister would be grateful for advice on this, and in particular the plans to publicise the litter laws, and whether the best means of promoting public awareness might not lie in the initiatives the local authorities are taking as part of the Citizen's Charter process.

I am copying this letter to James Hynd (Scottish Office), David Jennings (Welsh Office) and Alastair Bridges (HM Treasury).

WILLIAM E CHAPMAN

Richard Shaw Esq
Department of the Environment

25

MR CHAPMAN

2nd December 1991

LITTER

We spoke about litter. At the Chequers Seminar, the problem of litter was said to be one of the most irritating issues when the public is quizzed on an unprompted basis. We were asked to look at how effective the new laws are proving.

The main problem seems to be that people are unaware of their new rights. DoE have plans to distribute leaflets through supermarkets, but little more. Plans for a drive to shame councils into action seem to have been shelved.

I attach a draft letter to Michael Heseltine's office. I see this as a first shot to smoke them out, which I would be able to follow up.

Alan

ALAN ROSLING

262.ar

T

DRAFT P/S LETTER TO DoE

The Prime Minister ~~understands~~ (has learned of concerns) that ~~the most important impediment to the effective working of the new measures to deal with the problem of litter in public services~~ is that few people are aware of the new legislation or their rights under it, ~~that is~~ (which is) impairing the measures' effectiveness.

IP The P-M- ~~He~~ would be grateful ~~to receive~~ (for) advice on the plans to publicise the litter laws, and whether the best means of promoting public awareness might not lie in the Citizen's Charter ~~initiative~~ (process). (This, and in particular investigating the local authorities are taking ~~under~~ for part of the)

I am copying this letter to the offices of ~~Ian Lang, David Hunt and Francis Maude~~ (James Hynd (Scottish Office) David Jenning (Welsh Office) and Philip Rutnam (HMT)).

262.ar

would be grateful to know how the new anti-litter measures are working. He

8 March 1991

MR POTTER

cc Mr Chapman

GEN 7: FOLLOW-UP TO THE ENVIRONMENT WHITE PAPER

GEN 7, the group set up under Michael Heseltine's chairmanship to push forward the policies set out in the Environment White Paper, had its first meeting on 7 March. The first topic was the countryside. The paper put in by John Gummer looked like a draft of MAFF's bidding letter in the coming PES round. It is clear that MAFF will press for more and more money to be given to farmers under various environmental schemes; and that DOE will support them in this, although there are frictions between the two departments over responsibility for the countryside.

There is a danger that we are going to end up with a plethora of environmental initiatives, all costing money, and based on some pretty muddled thinking viz.

- that the countryside really belongs to the public;
- that the public want it kept in a particular way;
- that farmers must be paid with public money to carry out this task (with consequent obligations on access).

Frankly this sounds more like something from the Diggers' Manifesto than anything to do with the Conservative Party.

CAROLYN SINCLAIR

249.CS

CONFIDENTIAL

PRIME MINISTER

LITTER

You wrote to Mr Heseltine about what the Government is doing to take part in the National Spring Clean Campaign of the Tidy Britain Group and his reply is attached.

Your request was inspired by a letter from Mary Archer, following which Judith Chaplin provided you with a letter to send to the Secretary of State for the Environment. Because the correspondence was (rather strangely) handled by the Political Office I was unaware of it until recently. The Tidy Britain Group is of course Government funded and the National Spring Clean week is designed to give a boost to the new litter provisions of the Environmental Protection Act 1990. These provisions also affect Government Departments and Mr Heseltine recently wrote to them (letter attached) to remind them of their responsibilities. A copy of his letter was sent to you for information only and as you were busy that night I did not bother you with it. I have recently been in correspondence with the Chairman of the Tidy Britain Group, Professor Ashworth, about what you might do personally to support the campaign - if you were able and chose to do so. Professor Ashworth has now written with some formal proposals which I will put to the next diary meeting.

CMS

Caroline Slocock
12 February 1991

RLe
EAM

cc PU

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

19 November 1990

Your Secretary of State wrote to the Prime Minister on 12 November enclosing a copy of the new statutory Code of Practice on litter which was published last week. The Prime Minister has seen this and commented that she is grateful for the work which has been done on this and thinks that it is a very good Code.

CAROLINE SLOCOCK

Miss Kate Bush
Department of the Environment

PRIME MINISTER 4

NEW LITTER CODE OF PRACTICE

You saw during the week the attached note from Mr Chris Patten drawing your attention to the new litter code of practice which was published on Tuesday. I promised to put the Code in your weekend box in case you should like to look at it. It is attached.

This lays down standards of cleanliness for different types of land eg shopping centres, motorways, railway embankments. The interesting thing is that it does this in terms of the amount of litter which can be tolerated in each area rather than by saying how frequently each area should be cleaned.

A number of photographs are given in the Code which illustrate grades of cleanliness from A to D. I have flagged these up. Local authorities will be asked to classify all the land in their area into one of eleven categories or zones specified in the Code. Each of these zones has a specific standard which it should meet. The Code lays down what Grade should be met when land in a particular zone is first cleaned and the maximum time which should be allowed to pass before it is restored to that level.

This should make it much easier to monitor whether local authorities and others are carrying out their duties and much easier to prosecute them when they fail.

GBS

Caroline Slocock
16 November 1990

Nicholson – a very good code
NF

Prime Minister[2] CCPM

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CAS 12/11

PRIME MINISTER

As you know, the Environmental Protection Act, which has just received Royal Assent, places a duty on local authorities and certain other bodies to keep land clear of litter and refuse. It also increases the maximum fine for littering from £400 to £1000; and gives powers to local authorities to operate fixed penalty schemes of the type operated exclusively by Westminster City Council at the moment, to designate litter control areas and to issue street litter control notices. I am confident that this package of measures will provide valuable ammunition for our attack on litter.

I wish to introduce the new measures as soon as possible. I therefore propose to introduce the new litter duty on 1 April 1991. It will apply to local authorities and the Crown and, by order, to designated educational institutions and statutory undertakers (such as British Rail and British Waterways).

In the meantime, I am laying before Parliament on Tuesday, 13 November a statutory Code of Practice, giving practical guidance to those who will be placed under the duty. The Code is being issued jointly by my Department, the Department of Transport, the Department of Education and Science, the Scottish Office and the Welsh Office. I enclose a copy.

This Code breaks new ground in two ways. It sets out for the first time standards of cleanliness which should be achievable in different types of location under different circumstances. That means that all local authorities should be aiming for the same levels of cleanliness in similar locations. It sets down response times for cleaning an area to a given standard. This will allow the bodies under the duty, and aggrieved citizens, to assess whether the body is achieving the appropriate standards for the area. The Code will be admissible as evidence in proceedings by aggrieved citizens.

Secondly, the Code concentrates on output measures rather than the traditional input measures. In other words, it is interested in how clean land is rather than how often it is cleaned. This should lead to a better targetting of resources - more frequent sweeping of litter blackspots but less frequent sweeping in areas which all but escape litter.

The Code is relevant to colleagues not only because it furthers a political imperative, tackling the problem of litter across the country, but because the litter duty will apply to the land of Government Departments which is open to the air and to which the public is entitled or permitted to have access. From 1 April 1991, Ministers in charge of Government Departments will have a duty, under section 89(1) of the Act, to ensure that that land is, so far as is practicable, kept clear of litter and refuse.

I am copying this minute to members of the Cabinet and to Sir Robin Butler.

C P

12 November 1990

PLO
ERM

cc PU

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LONDON SW1A 2AA

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Secondly, the Code concentrates on output measures rather than the traditional input measures. In other words, it is interested in how clean land is rather than how often it is cleaned. This should lead to a better targetting of resources - more frequent sweeping of litter blackspots but less frequent sweeping in areas which all but escape litter.

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C P

12 November 1990

Department of the Environment
Department of Transport
Department of Education and Science
Scottish Office
Welsh Office

ENVIRONMENTAL PROTECTION BILL: CODE OF PRACTICE ON LITTER AND REFUSE

November 1990

Department of the Environment
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Department of Education and Science
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ENVIRONMENTAL PROTECTION BILL: CODE OF PRACTICE ON LITTER AND REFUSE

November 1990

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NOTE TO READERS

This draft Code has been prepared in compliance with section 89(7) of the Environmental Protection Act 1990. It is the final version, subject only to Parliamentary approval being sought under section 89(11).

Erratum

1. Page 9. Third paragraph. Delete - 'of notification' where it appears.

2. Page 12. First paragraph. Delete - 'and cannot be admissible in court proceedings.'

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Recycled Paper

CODE OF PRACTICE ON LITTER AND REFUSE

Issued under section 89 of the Environmental Protection Act 1990

INTRODUCTION

Litter has been the subject of much legislation in recent years, brought forward by successive governments. The Control of Pollution Act 1974 (COPA), the Refuse Disposal (Amenity) Act 1978 and the Litter Act 1983, have all sought to bring about a cleaner, tidier local environment.

The 1983 Litter Act provided for a maximum penalty of £400 (now increased to £1,000) for anyone convicted of dropping and leaving litter. Section 22 of COPA apportioned responsibility for cleaning roads in England and Wales between different tiers of local authority. Section 25 of the Local Government and Planning (Scotland) Act 1982 had the same effect in Scotland. Yet, there has until now been no clear and unambiguous requirement for local authorities (or other owners of land to which the public has access, or which is in full view of the public) to keep their land clear of litter and refuse. Part IV of the Environmental Protection Act 1990 ("the Act") makes good this deficiency.

However, the Government recognises that the eradication of litter from our streets and other open spaces will never be achieved simply by attacking the symptoms. Only when there is a universal realisation that dropping litter is fundamentally anti-social and unacceptable will we see an end to a littered local environment.

In order to secure the change in attitude required of many people, the Government has provided grant-in-aid under the Litter Act 1983 to the Tidy Britain Group (which engages in various educational and promotional programmes). Funding has also been provided for the Groundwork Trust and for local environment improvement schemes under the Urban Programme. The work of these bodies continues.

But, despite these measures, it is inevitable that some litter will continue to be dropped and, recognising that litter begets more litter, the Government considers it important to ensure that any litter which is dropped is swiftly and efficiently cleared away. So the Act places a new duty on the Crown, local authorities, designated statutory undertakers and the owners of some other land to keep land to which the public has access clear of litter and refuse, as far as is practicable. (In the case of designated statutory undertakers, the duty may apply additionally to land to which the public does not have access.) The duty also applies to the land of designated educational institutions. The Act requires the Secretary of State, under section 89(7), to issue a Code of Practice to which those under the duty are required to have regard.

Objective

The objective of this Code of Practice is

> "to provide guidance on the discharge of the duties under section 89 by establishing reasonable and generally acceptable standards of cleanliness which those under the duty should be capable of meeting."

It will immediately be apparent that this Code, in it's approach to litter clearance, is innovative in at least two ways. Firstly, it attempts, by defining standards of cleanliness which are achievable in different types of location and under differing circumstances, to ensure uniformity of standards across Great Britain.

Secondly, the Code is concerned with *output standards* rather than *input standards* - that is to say, it is concerned with *how clean* land is, rather than *how often it is swept*. Indeed, this Code does not suggest cleaning frequencies at all - it simply defines certain standards which are achievable in different situations. This may mean that an area which all but escapes littering will seldom need to be swept whereas a litter blackspot may need frequent attention. It will be seen, then, that the Code offers considerable scope for local authorities and others to target their resources to areas most in need of them, rather than simply sweeping a street because of the dictates of an arbitrary rota. Expressed in its simplest terms: "if it isn't dirty, don't clean it".

Further guidance

The appendix, which is not part of the Code of Practice issued under section 89(7) provides advice on 'best practice' methods which might be adopted to help achieve the described standards (although different practices which achieved the same ends would be perfectly acceptable). Steps which bodies under the duty might take to strengthen public commitment to cleanliness are also suggested in this section.

The Duty

Section 89(1) of the Act places on the Crown and (in England and Wales) county, district and London borough councils, the Common Council of the City of London, and the Council of the Isles of Scilly and (in Scotland) regional councils, district or island councils, joint boards (collectively known as 'principal litter authorities') a duty to ensure that all land in their direct control which is open to the air and to which the public has access is kept clear of litter and refuse, so far as is practicable. In addition, where the duty extends to roads, they must also be kept clean - again, as far so is practicable. (For definitions of the land to which the duty applies see section 86).

Section 86(9) transfers the responsibility for cleaning all roads except motorways (which remain with the Secretary of State) from the highways authorities to the district and borough councils. As regards Scotland, section 86(10) assigns the responsibility for cleaning all roads except motorways (which remains with the relevant

roads authority) to the district and islands councils. (For simplicity, the word "road" is used freely throughout the Code and should, where appropriate, be read as "highway or, in Scotland, road". For definitions of the terms "relevant highway" and "relevant road" see sections 86(9) and (10), and 98(5) of the Environmental Protection Act 1990.)

A similar duty is placed on designated statutory undertakers. (Section 98(6) defines "statutory undertaker" as, broadly speaking, bodies authorised by an Act of Parliament to carry on transport-related undertakings. British Rail, London Regional Transport and BAA are just three examples of such a statutory undertaker.) One difference between the duty as it applies to statutory undertakers and the duty applying to principal litter authorities is that the duty on the statutory undertakers might cover some land in the direct control of a statutory undertaker *to which the public has no right of access* (such as railway embankments).

The duty also applies to land in the open air and which is in the direct control of the governing body or local education authority of designated educational institutions (see section 98(2) and (3)).

Similar duties may be imposed by principal litter authorities (other than county councils, regional councils or joint boards) on owners of other land by designating their land as a 'litter control area'. The types of land which may be so designated will be described by the Secretary of State in orders. An important criterion for inclusion in the list of land which might be designated is that it should be land to which the public are entitled or permitted to have access with or without payment. (Examples of the type of land which might be designated are supermarket carparks and privately-owned shopping malls.)

Persons under the duty are required by subsection 89(10) to have regard to the Code of Practice in discharging their duty.

The Act allows the Secretary of State to specify descriptions of animal faeces to be included within the definition of refuse. He may also, by regulation, prescribe particular kinds of things which, if on a road, are to be treated as litter or refuse.

Practicability

The *caveat* in the summary of the duty concerning practicability is very important. It is inevitable that on some occasions circumstances may render it impracticable (if not totally impossible) for the body under the duty to discharge it. It will be for the courts to decide, in all cases brought before them, whether or not it was impracticable for a person under the duty to discharge it but certain circumstances are foreseeable in which the discharge of the duty may be considered by the courts to be impracticable.

For instance, to clear litter or refuse from a railway embankment, or a motorway or other busy road, may entail a restriction of traffic (in the interests of safety both for cleaners and travellers, and to ensure the minimum disruption for road and rail users).

Such restrictions often require detailed planning weeks or even months beforehand, as a consequence of which it may be that litter will have to remain for longer than might otherwise be tolerable. There may be cases where litter or refuse is left as a result of an unforeseeable circumstance or special event. In the first few months after the legislation comes into force, some areas may be affected by the accumulations of many years. Both these circumstances may present particular cleaning difficulties. Similarly, bad weather may make it impossible to clean an area. Moreover, if the weather conditions are exceptionally severe, it may be that resources would have to be diverted to emergency work, making sweeping and cleaning an impracticability. Considerations of safety might also suggest that to clear a very heavily used pedestrian area during peak hours *without risking injury* would be impracticable.

There is also the consideration of what it is reasonable to expect a body under the duty to achieve. For example, whilst the standards in the Code would normally apply throughout the year, it may not be reasonable, or indeed practicable, to expect them to be met on Christmas or New Year's Day.

Enforcement

In the great majority of cases those under the duty will wish to achieve the highest possible standards of cleanliness. However, the Act makes provision for the occasion when a body under the duty may not discharge it adequately. Under section 91 a citizen aggrieved by the presence of litter or refuse on land to which the duty applies may, after giving five days' written notice, apply to the magistrates' court (or, in Scotland, the Sheriff) for a 'litter abatement order' requiring the person under the duty to clear away the litter or refuse from the area which is the subject of the complaint. Failure to comply with a litter abatement order may result in a fine (with additional fines accruing for each day the area remains littered). Any person contemplating enforcement action should not just consider the presence of litter but is advised to consider whether the body in question is complying with the standards in the Code before notifying them, since, under section 91(11) the Code is admissible in evidence in any court proceedings brought under that section.

It may be thought that the requirement on the part of the aggrieved citizen to give the duty body five days' notice before bringing an action, together with the inevitable delay between summons and hearing, will in practice allow a duty body far longer - maybe several months - to deal with accumulations of litter than the period of hours contemplated (for the most part) by this Code (see below). This is not so. Firstly, the courts are specifically empowered (under section 91(12)) to award costs to a complainant where the court is satisfied that *at the time the complaint was made to it* the land was defaced by litter or refuse - even if the land is clean at the time the case comes to court. Secondly, a citizen aggrieved by the persistent failure or wilful refusal of a duty body to discharge its duty would be entitled to apply to the High Court or, in Scotland, to the Court of Session, for Judicial Review of that body's actions.

Similarly, local authorities can act against any other body under the duty which appears to them to be failing to clear land of litter and refuse. Under section 92, if a local

authority is satisfied that any land covered by the duty is defaced by litter or refuse, or that defacement is likely to recur, they can serve a 'litter abatement notice' on the person under the duty to keep that land litter-free. The notice may require that the litter or refuse be removed within a specified time and/or that the land must not be allowed to become defaced by litter or refuse again. Non-compliance with a litter abatement notice may result in a fine (with additional fines accruing for each day the area remains littered).

In either case it will be a defence for the person under the duty to show that he has complied with the duty. This Code of Practice is admissible as evidence in court proceedings and if any of its provisions appear relevant to the court in determining any question before it, (eg. whether or not the duty has been discharged) the court shall take account of them.

Cleanliness Standards

This Code of Practice is based on the concept of four standards of cleanliness:

- no litter or refuse, known as grade A;
- predominantly free of litter and refuse apart from small items, known as grade B;
- widespread distribution of litter and refuse with minor accumulations, known as grade C; and
- heavily littered with significant accumulations, known as grade D.

Animal faeces, as prescribed by the Secretary of State in regulations, will not necessarily imply an area has fallen to a specific standard. They may be present where the cleanliness of the area has fallen to grade B, C or to D, and must be considered alongside other litter and refuse.

(Photographs showing examples of the various cleanliness standards in a variety of locations appear at the end of the Code).

Whilst it is obvious that the first standard of cleanliness (grade A) is the ideal, it is not reasonable to expect that standard to be maintained at all times in all places; technical difficulties may make it impossible to achieve in some circumstances, and it is unlikely to be maintained for long periods in heavily trafficked areas. Grade A should be seen as the standard which a thorough conventional sweeping/litter-picking should achieve in most circumstances - although it is accepted that it may not last for very long. A few items of litter dropped onto a grade A surface will not necessarily be sufficient to degrade that area to grade B.

It will be a matter for the courts to decide how large an area should be considered for the purposes of assessing defacement by litter and refuse, where relevant comparing photographic evidence with the photographic examples in the Code. That will depend on circumstances - whether, for example, a single mound of litter in an otherwise clean street means that the street as a whole has fallen to grade C or D, and therefore the body concerned has failed to discharge its duty.

Zones

The Code has two key principles:

- areas which are habitually more heavily trafficked should have accumulations of litter cleared away more quickly than less heavily trafficked areas; and

- larger accumulations of litter and refuse should be cleared more quickly than smaller accumulations.

The Code therefore divides land types into 11 broad categories of zones according to land usage and volume of traffic. Within the broad descriptions of zones set out below it will be for the local authority or other body under the duty to allocate geographical areas to particular zones (including, where applicable, beaches for the purposes of Category 5 Zone, roads for Category 6 and 7 Zones, educational land for Category 8 Zone, railway embankments for Category 9 and 10 Zones and canal land for Category 11). It is clear that this allocation must be given due publicity, not least to avoid unjustified complaints, although how it chooses to do so will be a matter for the individual body under the duty. Annotated maps in town halls, libraries and other central offices might be appropriate.

Section 95 requires certain local authorities to keep a register on which are recorded details of land which has been designated a 'litter control area' and where street litter control notices issued. Bodies under the duty could use a similar arrangement to publicise their zonings.

In allocating geographical areas to the various zones the duty body will need to use its best judgement, possibly after a period of consultation. It is recognised that there is a level of detail below which it would not be practicable to allocate land to different zones. The duty body will want to avoid, for example, dividing a particular street into 3 different zones simply because it displays characteristics of each of those zones.

Categories

The concepts of standards of cleanliness, practicability and zonings are brought together in this part of the Code which identifies, for different situations, practicable and achievable response times during which the duty body should restore the land in question to a particular condition.

It is stressed that the time periods given below are response times for cleaning an area which has become littered. They do not represent intervals between sweeps, which in many cases could be much longer. Again, 'if it isn't dirty, don't clean it'.

a. General zones

In categories 1 to 4 below, the period from 8pm to 6am is to be discounted for the purpose of assessing compliance with the standards, subject to the proviso in Category 1 Zone below.

It is recognised that on grassed areas, grade A is not always achievable.

Category 1 Zone

So far as is practicable, in town centres, shopping centres, shopping streets, major transport centres (including railway & bus stations and airports), central car parks and other public places where large numbers of people congregate, grade A should be achieved after cleaning. If this falls to grade B, it should be restored to grade A within six hours. If it falls to grade C it should be restored to grade A within three hours and grade D should be restored to grade A within one hour.

If the standard should fall to grade B or below during the period from 8pm to 6am, it should be restored to grade A by 8am.

Category 2 Zone

So far as is practicable, in high density residential areas (containing, for example, terraced houses and flats), land laid out as recreational areas where large numbers of people congregate, and suburban car parks and transport centres, grade A should be achieved after cleaning. If this falls to grade B, it should be restored to grade A within twelve hours. If it falls to grade C should be restored to grade A within six hours, and grade D within three hours.

Category 3 Zone

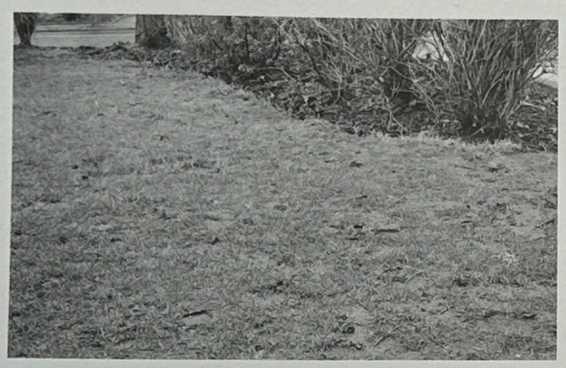
So far as is practicable, in low density residential areas (containing, for example, detached and semi-detached houses), other public parks, other transport centres and areas of industrial estates grade A should be achieved after cleaning. If this falls to grade C, it should be restored to grade A within twelve hours, and if it falls to grade D it should be restored to grade A within six hours.

Category 4 Zone

So far as is practicable, in all other areas grade A should be achieved within one week of the standard falling to grade C, and 60 hours of the standard falling to grade D.

b. Beaches

In establishing a cleansing standard for beaches careful consideration has been given to the practical difficulties encountered in collecting and removing litter, and the damage to sensitive habitats which may result from such operations.



Grade A

Grade B

Grade C

Grade D

Parks and Open Spaces

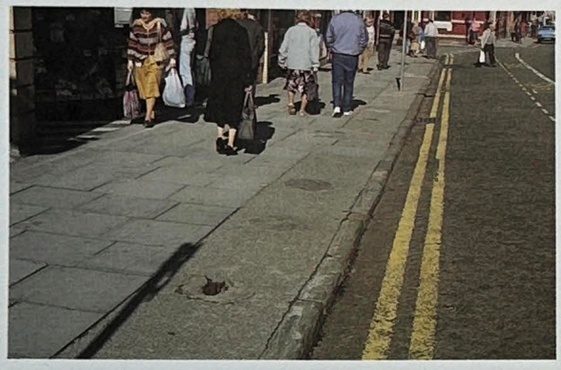
Transport Centres

Grade A

Grade B

Grade C

Grade D



Grade A

Grade B

Grade C

Grade D

Shopping Centres

Residential Streets

Grade A

Grade B

Grade C

Grade D

Grade A

Grade B

Grade C

Grade D

Shopping Centres

Residential Streets

Grade A

Grade B

Grade C

Grade D

The duty on any body to clean beaches extends only to the land above (in England and Wales) Mean High Water or (in Scotland) Mean High Water Springs.

Category 5 Zone

Local authorities should identify those beaches in their ownership or control which might reasonably be described as 'amenity beaches'. Any assessment should take into account the level of use of the beach for recreational purposes.

As a minimum standard, all beaches identified by the local authority as amenity beaches should be generally clear of all types of litter and refuse between May and September inclusive. This applies to items or materials originating from discharges directly to the marine environment as well as discards from beach users. The same standard should apply to inland beaches where substantial numbers of bathers or other beach users may congregate.

c. Roads

Zoning of roads will depend upon their importance within the road network and their environment. For the purpose of this Code, the following hierarchy of roads is adopted:

i. Motorways

ii. Strategic routes (all-purpose trunk roads and principal local roads which carry more than 15,000 or 10,000 vehicles per day in urban and rural areas respectively (ie. annual average daily traffic two-way over 24 hour period)).

iii. All other roads not included in (ii)

Each category can exist within an urban or rural environment. In urban areas category (iii) roads which form an obvious part of the local environment should be subject to the same standards of cleanliness as defined in Zones 1 to 4 above. Urban roads in categories i and ii which, by their nature, are free from pedestrian use (or largely so for non-motorway strategic routes), are clearly used largely to get traffic *through* an area (rather than to service the local area) and are subject to heavy traffic flows, should fall within Zone 6 below. Category (iii) roads not included in Zones 1 to 4, should fall within Zone 7 below.

Although in all cases standards and times relating to clearance of litter or refuse from the roads and related hard-shoulder and verge should be adhered to, as far as is practicable, it is recognised that for reasons of road safety (applying both to those doing the litter clearance and road users generally), and for reasons of avoiding traffic congestion, it will not always be possible to adhere to them. Where this is not possible, the first practicable opportunity should be taken in connection with other maintenance work which takes place to carry out a litter clearance in association with it. These considerations arise particularly in relation to motorways and strategic

routes which are subject to continuously heavy traffic flows and where traffic management measures reduce capacity, which may result in severe congestion and delay for users.

In developing a cleansing regime to deal with litter and refuse the duty authority should not forget that it has a duty under section 89 of the Act to keep roads clean. This may include such activities as street sweeping and washing. Care should always be taken to ensure that leaves, debris or litter do not block gulleys, causing flooding.

Category 6 Zone - Motorways and Strategic Routes

On motorways and strategic routes (which may be the responsibility either of the Secretary of State or the local authority), and on associated lay-bys, grade A should be achieved after cleaning of paved areas, and grade B should be achieved after cleaning of verges. If the standard falls to grade C, the area should be restored to grade A (paved areas) or grade B (verges) within four weeks of notification. If the standard falls to grade D, the area should be restored to grade A (paved areas) or grade B (verges) within one week of notification.

In the case of central reservations these time limits shall not apply, but it might be practicable to restore them to grade A and grade B respectively when other work is carried out either on the central reservation itself or in a part of the carriageway immediately adjacent.

Category 7 Zone - Local Roads

For local roads not falling within Zones 1 to 4, and on associated lay-bys, grade A should be achieved after cleaning of paved areas and grade B after cleaning of verges. If the standard falls to grade C, the area should be restored to grade A (paved areas) or grade B (verges) within two weeks. If the standard falls to grade D, the area should be restored to grade A (paved areas) or B (verges) within five days.

d. Educational institutions

Category 8 Zone - Educational Institutions

The aim when cleaning relevant land of designated educational institutions should be to remove all litter and refuse (grade A).

As a minimum standard during school, college or university terms, grade B should be achieved after cleaning on all relevant land of designated educational institutions. If the standard falls to grade C it should be restored to at least grade B within 24 hours (excluding weekends and half term holidays).

The duty on any body to clean beaches extends only to the land above (in England and Wales) Mean High Water or (in Scotland) Mean High Water Springs.

Category 5 Zone

Local authorities should identify those beaches in their ownership or control which might reasonably be described as 'amenity beaches'. Any assessment should take into account the level of use of the beach for recreational purposes.

As a minimum standard, all beaches identified by the local authority as amenity beaches should be generally clear of all types of litter and refuse between May and September inclusive. This applies to items or materials originating from discharges directly to the marine environment as well as discards from beach users. The same standard should apply to inland beaches where substantial numbers of bathers or other beach users may congregate.

c. Roads

Zoning of roads will depend upon their importance within the road network and their environment. For the purpose of this Code, the following hierarchy of roads is adopted:

i. Motorways

ii. Strategic routes (all-purpose trunk roads and principal local roads which carry more than 15,000 or 10,000 vehicles per day in urban and rural areas respectively (ie. annual average daily traffic two-way over 24 hour period)).

iii. All other roads not included in (ii)

Each category can exist within an urban or rural environment. In urban areas category (iii) roads which form an obvious part of the local environment should be subject to the same standards of cleanliness as defined in Zones 1 to 4 above. Urban roads in categories i and ii which, by their nature, are free from pedestrian use (or largely so for non-motorway strategic routes), are clearly used largely to get traffic *through* an area (rather than to service the local area) and are subject to heavy traffic flows, should fall within Zone 6 below. Category (iii) roads not included in Zones 1 to 4, should fall within Zone 7 below.

Although in all cases standards and times relating to clearance of litter or refuse from the roads and related hard-shoulder and verge should be adhered to, as far as is practicable, it is recognised that for reasons of road safety (applying both to those doing the litter clearance and road users generally), and for reasons of avoiding traffic congestion, it will not always be possible to adhere to them. Where this is not possible, the first practicable opportunity should be taken in connection with other maintenance work which takes place to carry out a litter clearance in association with it. These considerations arise particularly in relation to motorways and strategic

routes which are subject to continuously heavy traffic flows and where traffic management measures reduce capacity, which may result in severe congestion and delay for users.

In developing a cleansing regime to deal with litter and refuse the duty authority should not forget that it has a duty under section 89 of the Act to keep roads clean. This may include such activities as street sweeping and washing. Care should always be taken to ensure that leaves, debris or litter do not block gulleys, causing flooding.

Category 6 Zone - Motorways and Strategic Routes

On motorways and strategic routes (which may be the responsibility either of the Secretary of State or the local authority), and on associated lay-bys, grade A should be achieved after cleaning of paved areas, and grade B should be achieved after cleaning of verges. If the standard falls to grade C, the area should be restored to grade A (paved areas) or grade B (verges) within four weeks of notification. If the standard falls to grade D, the area should be restored to grade A (paved areas) or grade B (verges) within one week of notification.

In the case of central reservations these time limits shall not apply, but it might be practicable to restore them to grade A and grade B respectively when other work is carried out either on the central reservation itself or in a part of the carriageway immediately adjacent.

Category 7 Zone - Local Roads

For local roads not falling within Zones 1 to 4, and on associated lay-bys, grade A should be achieved after cleaning of paved areas and grade B after cleaning of verges. If the standard falls to grade C, the area should be restored to grade A (paved areas) or grade B (verges) within two weeks. If the standard falls to grade D, the area should be restored to grade A (paved areas) or B (verges) within five days.

d. Educational institutions

Category 8 Zone - Educational Institutions

The aim when cleaning relevant land of designated educational institutions should be to remove all litter and refuse (grade A).

As a minimum standard during school, college or university terms, grade B should be achieved after cleaning on all relevant land of designated educational institutions. If the standard falls to grade C it should be restored to at least grade B within 24 hours (excluding weekends and half term holidays).

During other periods, if the land in question is used for a purpose authorised by the governing body or managers of the institution, it shall be restored to grade B within one week of it's having fallen to grade C.

Out of term time, where the land in question has fallen to grade C, the governing body or managers shall ensure that it is returned to grade B as soon as is practicable.

e. Railway embankments

In this section, the references to railway embankments should also be taken to include cuttings, levels and sidings.

In establishing realistic response times and cleansing standards for railway embankments, account has to be taken of access problems, safety of those undertaking clearance work and of rail users and need to avoid disruption to rail services. Due regard should be taken to avoid damage to sensitive habitats.

In areas where the origin of litter or refuse is external to railway activities, clearance arrangements should be on a partnership basis involving the railway undertaking, local authorities and amenity groups, to eliminate blackspots.

Although clearance standards and response times should be adhered to so far as practicable, it is recognised that access, safety and traffic movement may sometimes preclude full adherence. In order to recover the position, the first practicable opportunity should be taken to undertake litter clearance in conjunction with track maintenance work.

The references in Categories 9 and 10 to railway undertakings should be taken to include light railway undertakings.

Category 9 Zone - Railway embankments within 100 metres of station platform ends

Grade B should be attained after clearance. If the standard falls to Grade C, the area should be restored to Grade B within 2 weeks. If the standard falls to Grade D, the area should be restored to Grade B within 5 days.

Category 10 Zone - Railway embankments within urban areas (other than defined in Category 9 Zone)

This category comes into effect from 1 April 1992.

Grade B should be attained after clearance. If the standard falls to Grade C, the area should be restored to Grade B within 6 months. If the standard falls to Grade D, the area should be restored to Grade B within 3 months.

f. Canal towpaths and embankments

In areas where the origin of litter or refuse is external to the activities of the canal or inland navigation undertaking, clearance arrangements should be on a partnership basis involving the undertaking, local authorities and amenity groups, to eliminate blackspots.

Although clearance standards and response times should be adhered to so far as practicable, it is recognised that access to canal embankments may sometimes preclude full adherence in these areas. (This should not affect adherence to the standards for towpaths.) In order to recover the position, the first practicable opportunity should be taken to undertake litter clearance.

Category 11 Zone - Canal towpaths, to which the public has right of access, in urban areas

On paved areas, Grade A should be achieved after clearance. If the standard falls to Grade C, the area should be restored to Grade A within 2 weeks. If the standard falls to Grade D, the area should be restored to Grade A within 5 days.

On grassed or non-paved areas, Grade B should be achieved after clearance. If the standard falls to Grade C, the area should be restored to Grade B within 4 weeks. If the standard falls to Grade D, the area should be restored to Grade B within 1 week.

APPENDIX

This appendix is not part of the Code. It therefore has no statutory basis and cannot be admissible in court proceedings.

(For convenience, the term 'duty body' is used in this section to describe any body - local authority or otherwise - under the duty to keep their land clear of litter and refuse, as far as is practicable. Not all advice will be directly relevant to every duty body.)

The Code of Practice describes standards of cleanliness which are achievable in a variety of circumstances and types of location, by those under the duty to keep their land clear of litter and refuse. It does not prescribe the standards nor the way in which the standards should be met as this will vary according to local circumstances and resources. Consequently, this appendix is only intended to be a guide to reviewing policies and practices towards litter. Individual bodies must decide whether this is the right approach for their particular circumstances.

Duty bodies should consider devising programmes which address the problem of litter through (where appropriate) efficient and effective schedules of refuse collection, street cleaning and litter bin servicing, and through public information and education campaigns.

Such programmes might include the following five elements:

- Appraisal
- Action
- Campaigning
- Education
- Enforcement

A: Appraisal

The essential first step in any anti-litter programme is a thorough examination of the facts to assess the nature, extent and cost of litter and littering.

Review of Waste Management Practices

Duty bodies should appraise their current solid waste management practices, cleansing methods, bin provision and servicing, &c... This should provide a quantitative understanding of the relative dimensions of the litter problem faced by the body, thereby providing the framework for identifying the most suitable preventative strategies and cleansing operations.

The appraisal, in combination with measures of public attitudes and awareness to litter, can be used to discover the most effective means of achieving the highest standards of cleanliness within the defined land use zones. This can be accomplished

by comparing the data with different litter management and preventative methods. There may well be scope for targeting the problem areas using the same level of resources previously applied to 'broad spectrum' cleaning operations.

The appraisal should also identify the voluntary groups and commercial and industrial concerns which can help resource the programme in cash or in kind.

B: Action

Duty bodies should consider implementing cleansing/litter removal programmes (prepared following the waste management review) which include such elements as:

- procedures to ensure that grades C and D conditions are dealt with promptly, possibly by the provision of a mobile 'hit squad' to restore the area to grade A condition;

- special arrangements for managing litter and refuse from special categories of land use (eg market stalls by licenses to include clearing the area at the end of the day);

- where there is a joint street cleansing and refuse collection contract, consideration should be given to the integration of household refuse collection and the cleansing programme to enable supplementary servicing of litter bins;

- street washing in zone 1, once a week in winter, twice a week in summer, where possible and desirable;

Plans for such programmes, and programme results, should be published to enable the duty bodies and the public to be quite clear about which procedures are being adopted and how effective they are.

A statement should be published by the body explaining the method of quality assurance to be used in monitoring the efficiency of cleansing contractors (applicable whether the cleansing is undertaken by a local authority's own DSO or a private contractor). The method adopted will need to be visual, relate to the four grades of cleanliness described in the Code of Practice and be capable of fairly simple checking.

The duty body should zone its land according to the Code and publish the zones through the local press and by exhibitions in the town hall, library or other public places. (Duty bodies may find useful the Tidy Britain Group's guidelines on zoning land.) Members of the public should be able to ascertain the zone in which they live, work or spend their leisure on request from a named officer of the duty body. There should be published procedures for the receipt and consideration of complaints.

Community Involvement

Members of the public will often be keen to help. The body should encourage participation in a co-ordinated programme of litter abatement activities by providing appropriate support, whether in the form of guidelines, 'tidy codes', publicity material or practical tools to do the clean up job.

Design against Litter

In all new developments and in repair and maintenance works, particularly in road and paved surfaces, the designs should have regard to the subsequent cleaning and maintenance practices. Guidelines should be prepared indicating location, style and capacity of the litter receptacles, and provision made for waste storage facilities.

C: Campaigning

An effective public information campaign is essential. The community needs to know the size of the litter problem, what steps are being taken to solve it, how they can be involved in the cleaning up operation and where success has been achieved.

The expertise in public relations of the duty body should be employed. Materials, such as posters, stickers, badges, T-shirts, films, videos, etc, could be produced to stimulate interest and to publicise the campaign. The local media should be encouraged to make the campaign their own and publish and broadcast news about the problem, the action and the successes. Competitions such as 'best kept street/village/ industrial estate' should be encouraged as they reinforce success. Sponsorship for these can be sought from the public and private sectors.

D: Education

Education has an essential role in awakening the interest of children and young people in all aspects of their environment and in cultivating in them informed concern about environmental problems, including the problem of litter in our streets and public places, together with a sense of personal responsibility for the quality of the environment.

Environmental education is an important theme which runs through the National Curriculum for children aged 5 to 16 in local education authority and grant maintained schools in England and Wales; and in parallel national curricular initiatives in Scotland. It will be taught in the context of many of the foundation subjects, including science, geography, and technology. Through these studies, as well as through personal and social education, which will remain a feature of the wider curriculum, teachers and schools will have a vital part to play in shaping positive attitudes to tidiness and litter abatement.

E: Training

Duty bodies should have regard for the training of their staff in litter abatement practices. Litter can be a hazard in the work place causing accidents and fires if it is not handled correctly. The individual's role in waste management is important and it should be part of the organisation's own policy of litter control and waste management to emphasize it. If this policy is to be successful, it must be the responsibility of a member of the management team and must be written into his or her job description.

MISCELLANEOUS ADVICE

Enforcement of the offence of leaving litter (section 87)

The local police and, in England and Wales, magistrates' clerks should be invited to join in any discussions about enforcement of the legislation. Local authorities could include in any anti-litter publicity information about:

i. the operation of the fixed penalty scheme for leaving litter (section 88), for example

   - where it will operate, and
   - which officers will enforce it.

ii. schemes (either voluntary or statutory under section 99 of the Act) to deal with abandoned shopping or luggage trolleys.

Care must be taken not to place weight on enforcement of the offence until the local authority waste management services are fully effective and the information and education programme has had time to create awareness.

Local authorities, and other bodies with byelaw making powers, should strongly consider applying the full range of dog byelaws, as appropriate, on their land. Such byelaws include powers to, in certain areas, ban dogs, require dogs to be kept on a lead, require the owner to clear up after his dog ('poop-scoop' byelaw) and make it an offence for the owner to allow his dog to foul.

Complaints

As explained in the introduction, the Act gives aggrieved citizens the right to seek redress in the courts if a duty body fails to keep its relevant land clear of litter and refuse (and, in the case of relevant roads, clean). However, before applying to the courts the aggrieved citizen must give to the duty body five days' written notice of his intention. It is in the interests of all parties, therefore, for the duty body to publicise the best means for an aggrieved citizen to make his complaint known.

Local authorities who have the responsibility for cleaning roads will notice that, in certain circumstances, the Code provides for land to be restored to grade A within two or four weeks - far longer than the statutory five day notification period. It is conceivable, therefore, that the situation may occur where a person, aggrieved by the littered state of a road in zone 6 or 7, may give notice of intended court action without being aware that the Code suggests longer response times (for example, in category zone 7, if the standard falls to grade C, it should be restored to grade A (paved areas) or grade B (verges) within two weeks). To pre-empt court action local authorities may wish to have a standard response immediately available to send to complainants in such cases, explaining this position. This advice also applies, in certain circumstances, to statutory undertakers and educational institutions.

Litter bins

The size and siting of litter bins is a matter which can only be decided with reference to conditions prevailing in each area, although empirical research clearly shows that bus stops, outdoor seating areas and the environs of take-away restaurants need plenty of well-serviced bins.

The frequency of litter bin placement on footways is, likewise, a matter for local determination, but research suggests that bins sited at frequent intervals may be appropriate in particularly busy thoroughfares, such as high streets in zone 1. Authorities should also consider the provision of bins in other zones, particularly parks, car parks and beach areas, and the temporary provision of bins at special events. When siting bins the needs of the disabled and visually handicapped should be remembered.

The Tidy Britain Group has more detailed advice on the size and siting of bins. For further information contact the Group at The Pier, Wigan WN3 4EX (or in Scotland, contact Keep Scotland Beautiful at Old County Chambers, Cathedral Square, Dunblane FK15 0AQ).

Fly-tipping

Any statutory undertaker, or any other duty body, which suffers fly-tipping on their land should take steps, once accumulations of refuse have been initially cleared, to prevent recurrence. These steps may include the following:

- preventative measures such as higher fences along boundaries, or maintaining existing structures.

- identifying those responsible for fly-tipping and persuading them to clear up, followed by prosecution (or the threat of it in the first instance) where co-operation is not forthcoming.

- setting up liaison machinery between the duty body, the local authority (as appropriate) and local residents and voluntary groups. This could tie in with education on the value of a tidy environment, together with information on alternative amenity tip or local authority collection facilities in the particular area.

Grass cutting

Where grass cutting takes place on relevant land or a relevant road, duty bodies should take steps, as far as is practicable, to co-ordinate that activity with litter clearance, whether or not they are responsible for cutting the grass in question. It may be appropriate to arrange for litter clearance before cutting where the grass is kept short, such as on playing fields, whereas on grassed areas which are not so heavily maintained, such as verges, it may be more appropriate to arrange litter clearance after cutting when the litter and refuse will be more exposed.

Duty bodies are encouraged to make arrangements to remove litter and refuse from any hedge or fence adjoining the relevant land or road, where it is accessible and visible from such land or road.

In general, when clearing litter and refuse from vegetation, care should be taken to avoid damaging sensitive wildlife habitats. If in any doubt as to the value of any area for wildlife, independent advice from an appropriate nature conservation body should be sought before litter clearance is undertaken.

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Oddi wrth yr Is-Ysgrifennydd Seneddol

IAN GRIST MP

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From The Parliamentary Under-Secretary

n.o.P.M.
BHP 6/11

CT/4854/90

5 November 1990

Dear Chris,

Thank you for a copy of your letter of 11 October to Malcolm Rifkind about proposals for dealing with the impact of the new litter code on local authorities that have already entered into arrangements for street cleaning. I have also seen the Prime Minister's comments on your proposals.

My principal concern remains that the new litter code should be implemented as quickly as possible and that it should be seen to be effective throughout the country. Your proposals for a phased re-tendering of contracts that DSOs have won would inevitably cause considerable delay and result in the much later implementation of the code in some areas than in others. I believe that this would greatly reduce the desired impact of the new regime. Furthermore the treatment of contracts won by DSOs in a manner which is quite different from the way we agree private sector contracts should be dealt with will I am sure tend to alienate many in the local government field who might otherwise be willing to concede that the competition regime does have beneficial effects, without commensurate advantages to us.

I remain unhappy about these proposals and agree that we should meet soon to discuss the arguments for and against them.

/I am copying

The Rt Hon Christopher Patten MP
Secretary of State
Department of the Environment
2 Marsham Street
LONDON

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, Malcolm Rifkind, Norman Lamont, Cecil Parkinson and Sir Robin Butler.

Yours ever,

Ian

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, Malcolm Rifkind, Norman Lamont, Cecil Parkinson and Sir Robin Butler.

Yours ever,

Ian

06 NOV 1990

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BHP SM

CC PM

D.

SECRETARY OF STATE FOR SCOTLAND

SCOTTISH OFFICE
WHITEHALL LONDON SW1A 2AU

The Rt Hon Christopher Patten MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

31 October 1990

Dear Chris.

THE NEW LITTER LUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

Thank you for your letter of 11 October.

I have also seen the Prime Minister's views on this matter, and I agree with her that re-tendering would have to apply to both contractors and DSO's. We must be seen to be even-handed in our treatment of private contractors and DSOs in this matter. I do not believe that this will be achieved by your proposals for DSO "contracts". I would welcome an early meeting.

I accept what you say about the savings in manpower and costs which competitive tendering has produced. I do not think, however, that we can expect further savings of 25%, or even 10%, in future rounds of competition for the same service in the same authorities. As you say, the legislation has enabled management to manage again and we know that authorities have already reduced workforces and tackled restrictive and out-dated working practices to enable them to compete with the private sector. Those substantial savings were, I believe, a one-off phenomenon and will not be repeated on anything like that scale. The main benefit from future competition rounds will be the pressure on authorities to maintain their cost effectiveness in the face of competition from the private sector.

I accept that re-tendering would cost less than the original tender process but there would nevertheless be an additional cost which authorities would undoubtedly make play of in the context of community charge levels. Nor should we ignore the additional burden of work which would fall on the authorities concerned at a time when we are trying to keep the burden on authorities to a minimum. I understand that this view is shared by the Central Unit on Purchasing, particularly in respect of small authorities - of which we have many in Scotland.

I have acknowledged that renegotiation could provide an escape hatch for DSOs who had bid too low and were in danger of failing to meet the rate

of return requirement, but we need to keep this in perspective. My officials have to date received about 25% of annual reports covering street cleaning for the year 1989-90 and none of the authorities concerned has failed to meet the specified financial objectives. While this is a fairly small sample it suggests that the number of authorities which would look to the new litter duties as an escape hatch is likely to be very small. For the remainder, the considerable pressure from both central government and their electorate to contain expenditure and hold down the level of the community charge should provide the incentive for them to ensure that they retain the efficiency gains already made and to reach a realistic price for the extra work with their DSO. If, as you suggest, we require the additional work to be ring fenced and accounted for separately, authorities will continue to be subject to the rate of return discipline for the original "contract" and the cost of the extra work will be clearly shown. This should make it difficult for authorities to inflate the additional costs unduly.

A further important point is that your proposals would mean that compliance with the new litter duties would be very far from immediate. We have already agreed that allowing existing contracts to run their course would cut across on the aim of implementing quickly the new litter provisions to the fullest possible extent and that the public would not readily understand a situation in which some areas benefited immediately from the standards in the litter Code whilst others had to wait. Your proposals for phased re-tendering over an 18 month period beginning a year after the implementation of the new litter duties could seriously prejudice the effectiveness of the Code. We have both made additional provision for local authorities to respond positively to the quite demanding terms of the Code and it would be an opportunity wasted if delays are now to be introduced. In my judgement, therefore, your proposals run the risk both of slackening the pace of progress on combating litter and of souring the climate for CCT.

As James Douglas-Hamilton said in his letter of 20 August, we are winning the argument on competition policy. I think it would be quite wrong to give our opponents the opportunity to accuse us of discriminating against local authorities and of using the new litter duties unfairly to give the private sector an early further bite at contracts they had lost in competition with DSOs.

MALCOLM RIFKIND

ENV AFFAIRS: LITTER P3

CONFIDENTIAL

RLe

TW

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

18 October 1990

Dear Phillip,

NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

The Prime Minister has seen a copy of your Secretary of State's letter of 11 October to the Scottish Secretary about the new litter duties and their implications for competitive tendering of local authority services. The Prime Minister is also aware of the earlier correspondence on this issue.

The Prime Minister very much agrees with your Secretary of State's view that the Government should insist on phased retendering for both DSOs and other contractors currently carrying out street cleaning after competitive tendering. Only by retendering can the Government hope to achieve compliance with the new litter codes while sustaining the benefits from competitive tendering.

I am copying this letter to Tim Sutton (Lord President's Office), Gillian Kirton (Lord Privy Seal's Office), Martin Stanley (Department of Trade and Industry), Judith Simpson (Welsh Office), Jim Gallagher (Scottish Office), Jeremy Heywood (Chief Secretary's Office), Simon Whiteley (Department of Transport), and Sonia Phippard (Cabinet Office).

Yours ever,

Barry

BARRY H POTTER

Phillip Ward, Esq.,
Department of the Environment.

CONFIDENTIAL

CONFIDENTIAL

PRIME MINISTER

NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

Since July there has been a series of Ministerial letters about the new statutory duties to keep litter off the streets, and their impact on existing contracts for local authority street cleaning work.

I have not troubled you with the earlier correspondence. Mr. Patten has rightly insisted that the additional work required by the new litter duties (which come into effect next year) should be subject to full commercial re-tendering (where the present contract covers next year). At Flag A is the latest letter (11 October) which makes the case clearly and fairly.

It is widely recognised that competitive tendering has brought important savings, not least in manpower, for local authorities.

But both Scottish Office, and to a lesser extent Welsh Office, are resisting re-opening existing tenders to reflect the new litter duties. Instead, they are proposing simply to award the extra work to whoever holds the tender at present. In many cases this is the old local authority DSO i.e. Direct Service Organisation. Though dressed up in arguments about costs of re-tendering, the underlying Scottish/Welsh Office worry is that many DSOs might not win their contract again.

At Flag B is a note from Policy Unit which argues that you should support Mr. Patten's position.

Content for me to write out in support of Mr. Patten's line?

BHP

B. H. POTTER
17 October 1990
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CONFIDENTIAL

B

RRY POTTER

16 October 1990

THE NEW LITTER DUTIES AND COMPETITION TENDERING FOR LOCAL AUTHORITY SERVICES

Chris Patten's letter of 11 October to Malcolm Rifkind.

This long-running saga now has only one unresolved issue: whether, in order for the new litter standards to be met, the Government should insist on phased retendering in local authorities whose DSOs are doing street cleaning after competitive tendering.

Scotland and Wales are holding out against this, partly on grounds of retendering costs but mainly, it seems, on grounds of avoiding a row. (In Scotland, for example, the majority of tenders to date have been won by DSOs.)

But Chris Patten puts forward strong arguments for insisting on retendering:

- street cleaning is the one area above all where competitive tendering has had a real impact on costs and efficiency. To allow a significant amount of new work to proceed without tendering would send out all the wrong signals about the Government's attitude to these gains;

- allowing DSOs to do the new work without tendering would be a licence for inefficiency and extra costs;

- retendering costs are really not very high because all the procedures are established.

These arguments are compelling and Chris Patten is surely right to conclude that the real trouble is authorities' fears that DSOs will lose the work they now have. He has the support of other colleagues for his stance, including Norman Lamont and Peter Lilley.

Conclusion and Recommendation

The issue needs settling quickly because an announcement will have to be made when the Environmental Protection Bill is again taken in the Commons.

An indication of support from the Prime Minister for Chris Patten's position would be timely in persuading the Scots and Welsh to fall into line and agree to retendering.

John Mills

JOHN MILLS

A n.5.P.M.

B.F. if Scott continues to raise in private letters. KHP 12/10

cc

2 MARSHAM STREET
LONDON SW1P 3EB
071 276 3000

My ref

Your ref

The Rt Hon Malcolm Rifkind QC MP
Scottish Office
Dover House
Whitehall
LONDON
SW1

11 October 1990

Dear Secretary of State

THE NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

In my letter of 6 ~~September~~ Sept I said that I would write again when I had considered the points raised by colleagues. We are, of course, concerned with the position of local authorities who have already exposed their street cleaning work to competitive tendering and will thus have existing contracts with private firms or their own direct service organisations (DSOs) carrying out the work under the Local Government Act 1988.

As regards contracts with private firms colleagues all now seem to agree with the proposal in my letter of 26 July that the authorities will be required to use their best endeavours to renegotiate with the contractors to secure the extra work needed to comply with the new litter duties. Ian Grist has confirmed that he is content with this following a talk with David Heathcoat-Amory.

However, we have not managed to reach agreement on the treatment of authorities whose DSOs are currently carrying out street cleaning after competitive tendering, although officials met recently to explore the scope for a resolution of the difficulties.

In my letter of 26 July I proposed phased retendering in these cases as the only way of combining reasonably prompt compliance with the litter code and the preservation of the benefits we are obtaining from the competition legislation. You and Ian Grist take the view that this would give rise to complaints of unfairness and of unnecessary cost and trouble on the part of local authorities. You acknowledged in your letter of 22 June that allowing extra work to comply with the code to be awarded without the discipline of tendering would provide an escape hatch for DSOs who had bid too low for the original "contract". But as I understand it you and Ian believe that on balance a relaxation of competition in this area for a few years is preferable to a row with local government.

recycled paper

ENV AFFAIRS: Litter PTs

If retendering were not required authorities could award extra work to their DSO under one of two arrangements. The first alternative is to allow them to adjust the price for the whole of their street cleaning work, including the extra work, without any mechanism to ensure that the price increase is tightly related to the increase in work. This is the "escape hatch" in your words. The alternative would be to maintain the discipline of the 1988 Act on the work already tendered for and to ring fence in a separate account the extra work awarded, without competition, to comply with the code. This would not be easy for auditors to police but it might be better than allowing the pressure of the Act to be removed from the whole of street cleaning for the next few years.

I am bound to say that I find both of these options most unattractive. Street cleaning is one of the areas subject to competition where the private sector is most effective. Not surprisingly our research has shown that the biggest percentage savings in manpower are obtainable in this sector - an average of 25% in the authorities studies. Privately, councillors and chief executives will admit that the legislation has enabled management to begin to manage again. The benefits of competition in motivating workforces are even acknowledged publicly. To allow significant tranches of new work to be taken on without tendering will inevitably send out the signal that these gains do not matter very much after all.

I should perhaps also deal briefly with the arguments of cost and trouble. There is cost and trouble in tendering but it is far outweighed by average manpower savings of 25% or even 10%. Retendering costs much less because the procedures are all established and, in the case of the litter code, the specification will have to be adjusted anyway, whether there is tendering or not. I suspect that the real "trouble" will lie in authorities' fears that the DSO might lose the work.

For these reasons I hope that you and Ian will agree that we should accept my proposals for retendering. If you are not able to, a meeting seems inevitable and we shall need it soon because, the enabling amendment to the Environmental Protection Bill having been tabled, we shall very soon have to announce our proposals.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, David Hunt, Norman Lamont, Cecil Parkinson and Sir Robin Butler.

Richard Ryan

pp CHRIS PATTEN

Approved by the Secretary of State and signed in his absence

recycled paper

n.D.P.M.
BHP
11/9

SCOTTISH OFFICE
WHITEHALL LONDON SW1A 2AU

CONFIDENTIAL

The Rt Hon Christopher Patten MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

10 September 1990

Dear Secretary of State

Thank you for your letter of 6 September about the new litter duties and competitive tendering for local authority services.

I am content with your proposal that an amendment to the Environmental Protection Bill should be tabled which would give the respective Secretaries of State a general power to make appropriate regulations to deal with the interface between CCT and the new duties under the litter Code. I suggest your officials liaise with mine on the drafting of the provision. I note that it is to be wide enough to cover any of the solutions already canvassed.

I have also noted what Norman Lamont says in his letter of 3 September about the additional costs of the new litter duties having been taken into account in the AEF settlement for 1991-92. This is true but our point was a slightly different one and related to the additional costs and work involved for authorities in the tendering process itself if we require them to go out to tender again before existing contracts with DSOs expire. In Scotland, where at least 35 contracts - well over half the total - have been won by DSOs to date, the impact could be considerable.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, David Hunt, Norman Lamont, Cecil Parkinson, Christopher Chope, Ian Grist, First Parliamentary Counsel and Sir Robin Butler.

Yours sincerely,
Ian Wright

pp MALCOLM RIFKIND
(Approved by the Secretary of State and signed in his absence)

LHI00807.090

ENV Aff: Litter Pt 3

dti
the department for Enterprise

cc PM
n.b. P.M. at Heathrow.
BTHP
10/9

The Rt Hon. Peter Lilley MP
Secretary of State for Trade and Industry

The Rt Hon Chris Patten MP
Department of the Environment
2 Marsham Street
London
SW1

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Enquiries
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Telex 8811074/5 DTHQ G
Fax 071-222 2629

Direct line 071 215 5622
Our ref NP1013
Your ref
Date 10 September 1990

Dear Secretary of State

THE NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICE

Thank you for my copy of your letter of 6 September to Malcolm Rifkind.

I am content for you to take a power wide enough to encompass any of the options canvassed or supported by colleagues.

However, I note that there has been no disagreement with your view that legislation to terminate existing contracts with private sector contractors, without compensation, would be unacceptable. Even a power to take such a step would introduce damaging uncertainty into the market; and taken together with competition from DSOs which are required to make only a modest return on their contracts it may well be a significant deterrent to private sector participation in future rounds of competitive tendering.

I am sure that Counsel will be able to draft an amendment which avoids any suggestion that existing private sector contracts may be terminated and on this basis I can go along with what your propose.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, David Hunt, Norman Lamont, Cecil Parkinson, James Douglas-Hamilton, Christopher Chope, Ian Grist, Frist Parliamentary Counsel and Sir Robin Butler.

Yours sincerely
Rosalind Cox

[approved by the Secretary of State and signed in his absence]

Recycled Paper

ENV AFFAIRS : Litter PT 3

BARRY POTTER

6 September 1990

THE NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

Chris Patten's letter of today's date to Malcolm Rifkind. An answer on this is sought before the weekend.

Correspondence on this has been going back and forth since July. I discussed it with Caroline Slocock in early August but I presume she did not bother the Prime Minister with it then.

I am sure the immediate step for which Chris Patten seeks agreement is sensible. He needs the go-ahead now so that Counsel can prepare the necessary amendments to the EP Bill. A general order-making power to deal with the problem is needed whatever policy is adopted.

The substantive issue, however, remains difficult because the Government is bound to be accused of imposing new costs on local authorities which were not taken into account in the settlement.

It is evident from the correspondence so far that Departments' views are being driven by the importance of tackling litter on which of course the Prime Minister has laid great stress. But if the price of this is an excuse, justified or not, for upward pressure on next April's community charges, then litter may have to take second place.

Chris Patten will be writing around shortly on how to tie in the new litter duties to existing refuse collection contracts and that will be the point to put the papers to the Prime Minister. I cannot imagine she would not concur with the immediate proposal for an order-making power amendment to be prepared.

JOHN MILLS

ENV Aff: Letter Pt 3

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
071-276 3000

My ref

Your ref

n.5.P.M.
BHP
6/9

The Rt Hon Malcolm Rifkind MP
Secretary of State for Scotland
Dover House
Whitehall
London SW1

Dear Secretary of State 6 September 1990

THE NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

I am grateful to James Douglas-Hamilton for replying on your behalf to my letter of 26 July on this subject. I have also seen the letters of 23 August from Peter Lilley and Christopher Chope, of 28 August from Ian Grist and of 3 September from Norman Lamont.

There are clearly difficult issues to be faced here and I shall be writing to you again on the points raised by colleagues when I have been able to give them further consideration.

But we are constrained by the need to act very quickly to instruct Counsel and table amendments to the Environmental Protection Bill.

I should be grateful therefore, for agreement, preferably by the end of this week if that is possible, that we should now table an amendment which gives me a general power to make appropriate regulations to deal with the interface between CCT and the new duties under the Litter Code.

This would be wide enough to encompass any of the solutions canvassed by colleagues and would not commit them in any way to anything they are not already prepared to accept.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, David Hunt, Norman Lamont, Cecil Parkinson, James Douglas-Hamilton, Christopher Chope, Ian Grist, First Parliamentary Counsel and Sir Robin Butler.

Yours sincerely

pp CHRIS PATTEN
(Approved by the Secretary of State and signed in his absence)

100% RECYCLED PAPER

05 OCT PM 9 0

10 DOWNING STREET

Duty Clerk

Please ask John Mills to advise on this for o/c box

CJB

5/9

From: THE PRIVATE SECRETARY

C/00.

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

4 September 1990

Dear Caroline,

ENVIRONMENTAL PROTECTION BILL: ENFORCEMENT

Thank you for your letter of 10 August outlining the Prime Minister's concern about police enforcement of the Litter Act 1983 and the proposed fixed penalty tickets for littering on motorways.

I can assure you that the police do actively enforce the provisions of the Litter Act 1983. Their role here is obviously reactive, and depending on the circumstances of the case, they must decide whether it is appropriate for the offender to be brought before a court, or be issued with a caution, or warning. In 1988 a total of 1,762 defendants were proceeded against at Magistrates' Courts for offences under the 1983 Act. Whilst it is hoped that the increase in maximum fine to £1000 will have some deterrent effect, it is interesting to note that of the 1,555 guilty and fined, the maximum fine was imposed only twice, the average fine being £40.

With regard to littering on motorways, it might be helpful if I explain in more detail the thinking behind the Home Secretary's serious reservations. The police face a genuine dilemma in maintaining a balance between the apprehension of offenders and the safety of others. In 1989 there were 38 fatalities, of which 36 were civilians, arising from accidents involving police vehicles. The prime concern of the police must be not to compromise the safety of individuals and traffic on motorways.

To pursue a vehicle, probably at high speed, on busy motorways is a dangerous procedure. There is also a constant risk of accidents from vehicles in lane 1 when vehicles are parked, or

Ms Caroline Slocock
Private Secretary
10 Downing Street
LONDON SW1

/pulled over

pulled over onto the hard shoulder. General practice therefore is to shadow a vehicle and pull over at an intersection or service station. This procedure can often take quite some time and has to be viewed in the context of other priorities, including road safety offences, abnormal loads, matrix signals, broken down/abandoned vehicles, female drivers of broken down vehicles, and hard shoulder abuse. The police would view it as a road safety offence if a person threw something large and solid onto the motorway from their car.

There is no doubt that the police would encounter additional problems in positively identifying the vehicle, at high speed, from which litter is dropped. The question of culpability also arises where the vehicle is carrying passengers.

After further consideration the Home Secretary maintains his view that there is little justification for involving valuable motorway police resources in potentially dangerous procedures for an offence of this nature.

I am copying this letter to recipients of yours.

Yours ever,

Peter Storr.

P R C STORR

ENV AFFAIRS: L. Het Pt 3

0070 P190

cst.ps/let/15nl31.8

CONFIDENTIAL

CCPV.

n.b.P.M.
BHP
9/5

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Christopher Patten MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
SW1P 3EB

3 September 1990

Dear Chris

THE NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

Thank you for your letter of 26 July. I have seen the subsequent correspondence between colleagues about the implementation of local authorities' new litter duties under the Environmental Protection Bill.

2. I am concerned at the references in Ian Grist's letter of 22 June, and James Douglas-Hamilton's of 20 August, to the adverse implications for community charge levels in those authorities which re-submit their DSO contracts for competitive tender. There should be no implications for Community Charge levels because the expected additional costs of implementing the new litter code were taken into account in the AEF settlement for 1991-92, which you announced on 19 July. Some local authorities may try to pin the blame for higher charges on these new statutory duties, but it is important that we should refute such criticism strongly.

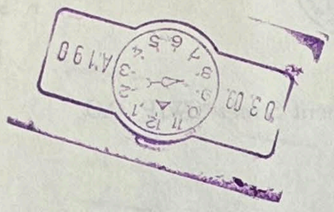
3. A copy of this letter goes to the Prime Minister, Geoffrey Howe, the Lord Privy Seal, Malcolm Rifkind, David Hunt, Cecil Parkinson, First Parliamentary Counsel and Sir Robin Butler.

Yours

NORMAN LAMONT

CONFIDENTIAL

ENV AFF : Litter, Pt 3.



n.b. P.M.
BHP
9/9

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Fax: 071-270 0568

From The Parliamentary Under-Secretary

IAN GRIST MP

CT/4697/90

24 August 1990

Dear Chris,

-top pt 2

Thank you for a copy of your letter of 26 July to Malcolm Rifkind about the best way forward in dealing with the impact of the new litter duty on those authorities which will have already let contracts for their street cleaning services, under the terms of the Local Government Act 1988, before 1 April next. I have now seen James Douglas-Hamilton's response of 20 August.

I agree that allowing existing agreements to run their full course is not a viable option since it would give the appearance of a lack of commitment to the litter proposals, and indeed I do not believe that there is a strong case for any exemption from compliance with the Code of Practice provisions. Therefore where an authority has let a street cleaning contract to a private sector company, and is unable to satisfactorily renegotiate the contract to Code of Practice standards, the authority should be required to make arrangements to bring its operations to the Code's standards whether by the placing of any necessary work with other private sector companies, or with its own or another authority's DSO in accordance with the provisions of the Act.

Where an authority's own DSO has been engaged to carry out the work, I agree with James that we should be seen to be even handed vis a vis the private sector and DSOs, so that such authorities should be allowed to renegotiate their arrangements to ensure compliance. If this should not prove possible, the authority would have to make alternative arrangements to place the work, as in the case of an authority operating a private sector contract.

..... I believe that

Christopher Patten Esq MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

I believe that in this way we can carry out our commitment to attacking the litter problem while avoiding giving local authorities cause to feel that we are unfairly discriminating against DSOs in favour of private sector companies.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, Malcolm Rifkind, Norman Lamont, Cecil Parkinson, First Parliamentary Counsel, and Sir Robin Butler.

Yours ever,

Ian

ENV. AFFAIRS: Litter pt 3

NBPM CCPM

THE DEPARTMENT OF TRANSPORT

PARLIAMENTARY UNDER SECRETARY OF STATE

FROM THE MINISTER FOR ROADS AND TRAFFIC

2 MARSHAM STREET LONDON SW1P 3EB
TELEPHONE 071-276 3000

The Rt Hon Chris Patten MP
Secretary of State for Environment
2 Marsham Street
LONDON
SW1 3EB

My Ref:

Your Ref:

23 AUG 1990

Dear Secretary of State,

NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

Thank you for copying Cecil Parkinson your letter of 26 July to Malcolm Rifkind about implementing the new litter duties under the Environmental Protection Bill where an award of a cleaning contract has already been made following competitive tendering.

The Coopers and Lybrand Deloitte study showed clearly that cleaning contract specifications will have to be enhanced in most cases if local authorities are to comply with the new litter duties and the associated code of practice. If we want the results of our anti-litter policy to be apparent as soon as possible then we must facilitate the transition. I agree that allowing authorities to repudiate existing cleaning contracts with private contractors would be unacceptable. I agree that the right approach is to require authorities to use their best endeavours to renegotiate contract terms while giving them a statutory defence against an action for breach of duty if a private contractor makes unacceptable demands for changing a contract specification.

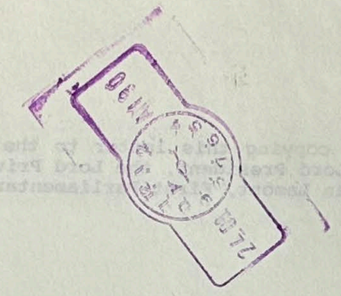
I also agree with your proposal that, where an award has been made to a DSO, the authority should be obliged to retender cleaning work. As you recognise, this course is not without its difficulties but I agree that it is preferable to any possible alternative. There will be criticism that the extensive retendering involved will itself lead to some increase in costs. But I am content if you are to accept the resulting delays in implementing the new litter duties which will have to follow on the phased retendering which you propose.

I am copying this letter to the Prime Minister, Malcolm Rifkind, the Lord President, the Lord Privy Seal, Peter Lilley, David Hunt, Norman Lamont, First Parliamentary Counsel and Sir Robin Butler.

Yours sincerely,

G. Peddleburg

pp. CHRISTOPHER CHOPE
(Approved by the Minister and signed by the Private Secretary)



dti

the department for Enterprise

NBPM

The Rt. Hon. Peter Lilley MP
Secretary of State for Trade and Industry

The Rt Hon Chris Patten MP
Department of the Environment
2 Marsham Street
London SW1

Department of
Trade and Industry

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Direct line 071-215 5623
Our ref PE3ATF
Your ref
Date 23 August 1990

Dear Chris

THE NEW LITTER DUTIES AND COMPETITIVE TENDERING FOR LOCAL AUTHORITY SERVICES

Thank you for my copy of your letter of 26 July to Malcolm Rifkind.

My preferred option would be for the phasing in of the litter obligation as and when existing contracts come to an end. I do not find any of the other options attractive. However, I accept your judgement that the introduction of higher litter standards on such a slow timetable would be indefensible.

I strongly agree that legislation to terminate existing contracts with private sector companies without the provision of compensation would be wholly unacceptable. At the very least it would sour a market in which we are hoping to generate increasing private sector interest. I can therefore agree to your proposal for dealing with private sector contracts.

Under the different approach you propose for DSOs, local authorities will have to bear additional costs arising from both the premature termination of existing contracts and the retendering exercise. No doubt local authorities will make much of the fact they will have no additional services to show for these additional costs. Your proposal is also vulnerable to the criticism that it will reduce effective competition because it imposes abnormal costs on only some of the players in the market.

Recycled Paper

dti

the department for Enterprise

These problems can no doubt be overcome if it can be shown that Community Charge payers will nevertheless get a better deal. Provided that you are satisfied on this point, I can go along with what you propose. However, if there is any doubt as to whether the benefits of your proposal to Community Charge payers can be adequately demonstrated, I would suggest that it may be less damaging to require contracts won by DSOs to be renegotiated in the way you propose for private sector contracts.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Malcolm Rifkind, David Hunt, Norman Lamont, Cecil Parkinson, First Parliamentary Counsel and Sir Robin Butler.

Yours ever,

Peter

Recycled Paper

PPS pl. CAS

FROM THE MINISTER FOR HOME AFFAIRS AND THE ENVIRONMENT

NBPM

SCOTTISH OFFICE
ST. ANDREW'S HOUSE
EDINBURGH EH1 3DG

R22/8

The Rt Hon Christopher Patten MP
Secretary of State for the Environment
2 Marsham Street
LONDON
SW1P 3EB

20 August 1990

Dear Christopher,

Thank you for your letter of 26 July to Malcolm Rifkind about how best to handle the impact of the new litter duty on those authorities which will already have let contracts to the private sector or assigned services to their DSOs following competition under the terms of the Local Government Act 1988. I am replying as Malcolm is on leave.

As you say, the simplest option would be to allow existing agreements to run their course and that, as you know, is the option we favour. However I accept your arguments that this would run counter to the aim of implementing quickly the new litter provisions to the fullest possible extent and that it would not be readily understood by the public. I am, therefore, content with your proposals regarding contracts won by the private sector.

I cannot, however, accept your proposals for "contracts" won by DSOs. As Malcolm said in his letter of 22 June, local authorities would protest that it was unfair to require them to go through the competition process again when contracts won by private contractors were not to be similarly treated. They would also object to the cost of a further round of tendering so soon after the first and they would undoubtedly make much play of the possible adverse implications for community charge levels in the authorities concerned. A further point is that it would be placing a burden on authorities at a time when we are trying to keep additional burdens on authorities to a minimum. I very much agree with Ian Grist's comment, in his letter of 22 June, that requiring authorities to re-tender would be considered draconian and attract considerable criticism. Your suggestion that we also change the timetable so that smaller numbers of contracts are let at more frequent intervals would almost certainly be perceived by authorities as a further indication that we are discriminating against them and in favour of private contractors.

I am firmly of the view that we must be seen to be even-handed in our treatment of private contractors and DSOs in this matter and that authorities should also be allowed to re-negotiate the contracts where necessary with the DSO with failure to reach an agreement being a defence against breach of duty to comply with the Code. It is, of course, unlikely that authorities will not be able to reach agreement with their DSOs and there is the risk, as Malcolm pointed out in his letter of

22 June, that this would provide an escape hatch for DSOs who had bid too low and were in danger of failing to meet the rate of return requirement. However negotiation also provides the opportunity for private contractors who had bid too low to improve their position.

I believe, therefore, that this risk is not too high a price to pay to secure the early implementation of the litter proposals and that it is certainly preferable to the political storm which inevitably would result if local authorities were forced to re-tender only those contracts which had been won by DSOs. We are winning the argument on competition policy. A wrong move at this stage could undermine everything we have achieved.

I am copying this letter to the Prime Minister, the Lord President, the Lord Privy Seal, Peter Lilley, David Hunt, Norman Lamont, Cecil Parkinson, First Parliamentary Counsel and Sir Robin Butler.

Yours ever

James

JAMES DOUGLAS-HAMILTON

FILE EAM

bc P.H

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

10 August 1990

Dear Sara,

ENVIRONMENTAL PROTECTION BILL: ENFORCEMENT

The Prime Minister has seen a copy of your letter of 2 August and Kate Bush's letter of 11 July setting out the results of discussions between the Home Office and Department of the Environment on the police's role in enforcing the litter provisions of the Environmental Protection Bill.

The Prime Minister welcomes the agreement that the police may help local authorities enforce the provisions of the Bill in special circumstances, such as anti-litter campaigns. She agrees that this would not be an efficient use of police resources. However, although she recognises the demands on police time, she remains concerned that litter offences should be effectively enforced. There are of course provisions under the Litter Act 1983; and last year Ministers agreed that maximum fines for litter offences under the 1983 Act should be raised to £1,000: the same as for careless driving. The Prime Minister hopes that these provisions are being effectively enforced by the police, and would be grateful to know how this is being done. Her particular concern in relation to the Environmental Protection Bill is that enforcement of the litter law on motorways will be non-existent if the police are not prepared to pursue people who drop litter, as you suggest. She has commented that she does not understand why the police should not do so: litter is against the law.

I should be grateful if you would bear the importance which the Prime Minister places on this in mind and come back to me with further advice as soon as possible.

I am copying this letter to Kate Bush (Department of the Environment), Tricia Rennie (Department of Transport), Jim Gallagher (Scottish Office), Lawrence Conway (Welsh Office), and Juliet Wheldon (Law Officers' Department).

Yours sincerely,

Caroline

CAROLINE SLOCOCK

Ms S J Dent
Home Office

PRIME MINISTER (1)

ENFORCEMENT OF LITTER LEGISLATION

You may recall that when the litter proposals were being put together you were concerned that the new spot fine should be effectively enforced. The Home Secretary had resisted the idea of the police being given a power alongside local authorities to issue fixed litter penalty notices because it would give the police new work. DOE and the Home Office agreed to discuss further how the police might otherwise help local authorities. You were also particularly concerned about the enforcement of litter duties on motorways - where only the police would have the capacity to enforce fines.

I attach at flag A letters from DOE and the Home Office recording the outcome of these discussions. They suggest that the police:

(i) might help local authorities, at their discretion, in special circumstances eg during particular anti-litter campaigns;

(ii) but would not want to pursue litter offenders on motorways. Why? Litter is against the law.

John Mills is unimpressed. He thinks that the first amounts to very little; and the second means that enforcement of the law on motorways will be non-existent.

John suggests you should press the Home Secretary to look at this further. He points out that there is nothing new about the police enforcing litter penalties. He suggests you should ask how the police are enforcing the existing provisions of the Litter Act 1983. Ministers agreed last year that the maximum fine for this offence should be raised to £1,000 - the same as for careless driving.

But you may want to welcome the suggestion at (i) as an advance - it seems to me that the help of the police in this way could be

quite effective and would be an efficient use of resources. But you may like to stress that although you recognise the demands on police time you consider it important that litter offences are effectively enforced, including on motorways.

Content to do so?

Caroline Slocock
9 August 1990

CAROLINE SLOCOCK o.r.

2 August 1990

Chris Patten's letter of 26 July to Malcolm Rifkind refers. Responses to this are sought by 17 August.

I have not yet seen any comments from other Departments but am writing this now because I shall be on leave next week.

The letter is not crystal clear but I understand it to say:

- retendering from March 1992 to be required;

- but before then, authorities to use best endeavours short of retendering to agree specifications with private contractors which will ensure compliance;

- also before then, a requirement to retender (even if before March 1992) for services assigned to D50s where compliance cannot be ensured on the basis of the existing agreement.

On this basis, what is proposed is reasonable, and I would recommend the Prime Minister endorses it. Anything less strict, which I would not be surprised to see suggested by Malcolm Rifkind, should be resisted.

JOHN MILLS

ENV AFFAIRS: Litter
B2

From: THE PRIVATE SECRETARY

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

2 August 1990

Dear Caroline,

ENVIRONMENTAL PROTECTION BILL: ENFORCEMENT

I have seen a copy of Kate Bush's letter of 11 July in which she conveys to you the Home Secretary's views on the enforcement of anti-litter controls. I thought it might be helpful to explain in more detail the thinking behind the Home Secretary's views.

You will recall that last November the Home Secretary said in a letter to Mr Patten that he was not in favour of the police as well as local authorities having the power to issue fixed penalty notices for littering. Mr Patten accepted this, although he said that he wanted his officials to discuss with the Home Secretary's what help the police might give without taking statutory powers, and the Prime Minister reserved her position until it was clear what sort of help the police could offer.

Without a specific power to serve a fixed penalty notice or to demand the name and address of an offender, the police would use their general powers under the Police and Criminal Evidence Act 1984. These would enable them to report an offender for summons if he gave his name and address; or alternatively, if he refused to give his name and address, to arrest him under the general arrest provisions. This would be a completely **alternative** way of bringing the offender into court.

There is no doubting the effectiveness of these powers, but enforcing them is resource intensive, and in practice presumes that the police will be in the vicinity of the local authority officers whose powers fail (e.g. when an offender refused to give his name and address and cannot be served with a fixed penalty notice). For this reason, it seems more sensible to ask chief officers to assist local authorities in occasional anti-litter blitzes. This would be far preferable to the alternatives of giving either local authority officers or the police additional specific enforcement powers.

The arrangements against applying fixed penalty notices for littering on motorways are broadly as set out in Kate Bush's letter.

I am copying this to the Private Secretaries to the Secretaries of State for the Environment, Transport, Scotland and Wales and to the Private Secretaries to the Law Officers.

Yours ever

Mr. Peter Storr.

MS S J DENT

Ms Caroline Slocock
No 10 Downing Street
LONDON, S.W.1.

ENV AFFAIRS
Letter Pt 2

PART 2 ends:-

55/ENV to 55/SCOT 26.7.90

PART 3 begins:-

CAS to PM 9.8.90