



Fulfilling Duty 2: Keeping roads clean

Supporting advice for the Code of Practice on
Litter and Refuse (Scotland) 2018

Prepared by: Zero Waste Scotland

June 2018



European Union



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European Regional Development Fund
Investing in a Smart, Sustainable and Inclusive Future

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Note: This information is for advice only and does not constitute legal guidance.

1 Fulfilling duty 2: Keeping roads clean

The Environmental Protection Act 1990 section 89 (2) places a duty on Scottish Ministers and Local Authorities to keep the roads they are responsible for clean.

CoPLAR supports this by providing practical advice which helps the duty holder to achieve and maintain the standard, which reflects duty fulfilment. This document builds on CoPLAR and provides additional information to help them fulfil their duty.

2 Responsible authorities and relevant roads

For the purposes of this duty:

- **Scottish Ministers** are responsible for motorways and certain special roads such as the A720 Edinburgh Bypass.
- **Local Authorities** are responsible for trunk roads (except motorways and special roads) and for B and C class roads in addition to other publicly accessible roads within their boundaries. The removal of detritus from trunk roads (except motorways and special roads) is a local authority responsibility, the wider maintenance responsibility sits with Transport Scotland and its operating companies.
- **Road and public roads** in Scotland are defined in the [Roads \(Scotland\) Act 1984 section 151](#). Duty holders must be aware that cleansing responsibilities include treatment of traffic islands, central reservations and off-side kerbs, verges, and hard shoulders, where provided.

3 What is 'clean'?

Duty holders will wish to consider what 'clean as far as is practicable' means in the context of a particular road.

In discharging duties in relation to roads, care should always be taken to ensure that debris, detritus and other materials are not left to become a danger to road users by accumulating to: block channels, gullies and cause flooding; encourage weed growth; or become compacted.

CoPLAR provides a framework for duty holders to remove detritus from roads, where Grade A is free from detritus. However duty holders should consider other substances that may make the appearance of a road unclean.

What is detritus?

Detritus can include dust, mud, soil, grit, gravel, stones, rotted vegetation and fragments of twigs, glass, plastic and other materials which can become finely divided. Leaf and blossom falls are to be regarded as detritus once they have substantially lost their structure and have become mushy or fragmented.

Detritus on roads must be removed as a requirement of the duty to keep roads clean as far as is practicable. The focus of removing detritus is likely to be from hard rather than soft surfaces. However Duty 2 extends to all areas of a road, including verges.

Detritus grades A-D are used to measure the level of detritus on a road surface.

Notes:

- Leaf and blossom fall only become detritus once they have become mushy or fragmented.
- Materials used on roads for other purposes, such as winter gritting, are not regarded as detritus unless they no longer fulfil their original purpose or become a hazard.
- Seasonal variations of such accumulations should be taken into consideration when formulating cleansing regimes.
- Animal carcasses, car parts and other large objects on roads are considered to be refuse, and fall within Duty 1.
- Weed growth is not classed as detritus but does create an uncared for impression of an area and should be managed appropriately. Guidance on weed growth is provided by the UK Roads Liaison Group's ['Well-Managed Highway Infrastructure'](#) code of practice.
- Regular sweeping and maintenance schedules can prevent small problems from escalating and ultimately becoming more expensive to fix. Regular removal of detritus will prevent difficult to remove build-up of materials and will also prevent other maintenance issues such as weed growth.
- Detritus is not litter and relates to Duty 2 only.

4 Grades

For the purpose of duty 2 CoPLAR outlines, through grades, the presence of detritus on roads. Grade A is the standard, meaning the duty is being fulfilled. Grades B-D show the presence of detritus at different scales.

The images below provide examples of detritus presence at each scale:

- A is clean;
- Once presence of detritus begins the grade would become a B, anything in between the presence of detritus represented in B and that in C would be a B grade;
- Once the accumulation reaches the presence level represented in the C grade image, a C grade should be applied;
- When continuous build of detritus occurs and becomes a hazard it becomes a grade D. Hazards can include but are not limited to:
 - obscuring road markings
 - blocking drains and gullies
 - risk of flooding.

Therefore it is important to ensure that regular sweeping arrangements are in place to avoid the associated risks.

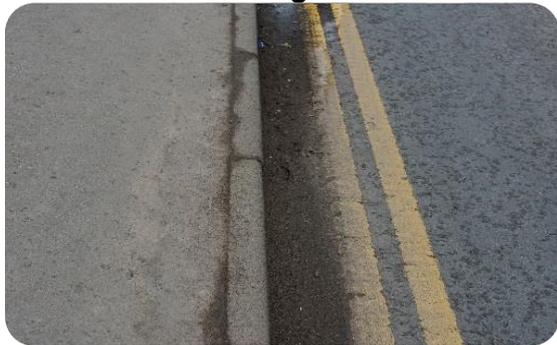
Grade A (compliance)
Road is free from detritus



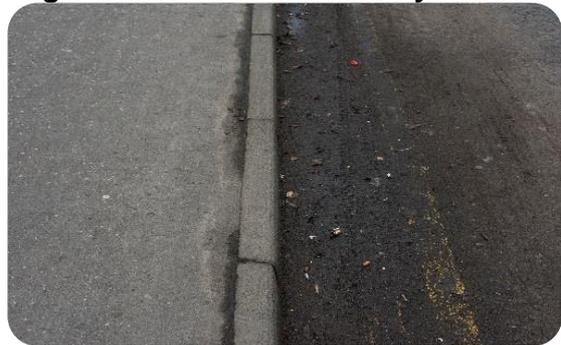
Grade B
A slight presence of detritus
on roads and gullies



Grade C
A significant presence of detritus on
roads and gullies



Grade D
Road surfaces are obscured or at
high risk of hazard caused by detritus



5 Response times

Response times are the maximum times duty holders have to restore a road to grade A.

The response times allocated to grade D are intended to prompt faster remedial action where a potential hazard exists.

Detritus Grade	D	C	B	A	Special Considerations
Zone					
1	1 day	5 days	14 days	No detritus	28 days
2	2 days	10 days	21 days		35 days
3	3 days	14 days	28 days		42 days
4	4 days	28 days	42 days		56 days
5	5 days	35 days	56 days		70 days
6	7 days	42 days	84 days		No additional time

Special Considerations

The special considerations provide extended response times for areas where it is not practicable to keep roads clean within the normal response times for that zone. This could be because of:

- Health and safety requirements
- Restricted access
- The need for specialist removal equipment

Duty holders must be able to evidence why special considerations have been used in a particular situation. Where a permanent special consideration is required for an area then the duty holder needs to record this as part of the zoning process. Where special considerations are applied for temporary reasons this should be noted by the duty holder.

Special considerations apply to zones 1-5 only. Special Considerations do not apply to Zone 6, these have already been taken into account in the extended response times which apply to zone 6.

[More information on zoning](#)

Examples where special considerations apply could include:

- Roads (other than zone 6) where traffic management is required
- Where parking restriction notices need to be put in place to allow a road to be cleaned
- Extensive deposits of mud and slurry arising from 3rd party activities

These are examples only; duty holders need to be able to justify their reason for applying special considerations. The times provided are the maximum times to restore land; however duty holders should endeavour to restore an area as soon as is reasonably practicable to do so within the response time period.

Other Considerations

Response times are subject to overriding requirements where regulations and procedures of relevant legislation must be adhered to e.g. Health and Safety or traffic management. Generally, these considerations have, as much as possible, been taken into account in the times provided.

6 Practical Considerations

Practicability

Duty holders are required to fulfil the duty to keep roads clean as far as is practicable. This means they should put in place all reasonable measures to ensure they meet their duty within the timescales, where it is feasible to do so.

A court is likely to look at all the circumstances of a case, including resources. It is up to the duty holder to ensure that appropriate resources are put in place to allow them to fulfil the duty and be able to evidence compliance.

Some examples are included below but it is up to the courts to decide on a case by case basis if a duty holder has, or has not, discharged its duty on the grounds that it is impracticable to do so.

Some conditions or situations can make meeting the timescales impracticable. These could include:

- Extreme weather
- Seasonal considerations e.g. winter road gritting
- Regard to other legislation is to be taken into account
- Surface types making it impossible to clean to a grade A standard

Every effort must be made to keep roads clean as far as is practicable and once conditions making it difficult to keep roads clean within the timescales have been resolved, duty holders should endeavour to restore the area as soon as possible.

Resourcing

Duty holders should identify the resources they need to enable them to meet the duty. Approaches will differ from area to area and therefore it is not possible to provide specific advice on this. It is recommended that duty holders share best practice and, if possible, identify opportunities to share resources that will maximise impact and efficiency.

Duty holders may not have the resources in place outside of normal operational hours to restore roads to grade A within some of the shorter response times. To account for this, the following times are discounted for assessing compliance:

- 20:00-06:00
- Christmas Day and New Year's Day

However where the standard falls to an unacceptable level during those times, every effort must be made to restore the land to an A grade by 08:00 the next working day.

Monitoring Compliance

All duty holders need to be able to evidence that they are meeting the required standard.

Zones, grades and response times provide duty holders with a framework within which to evaluate their performance and take action.

Monitoring activity allows duty holders to:

- Evaluate performance and effectiveness
- Identify issues which need further action
- Show how they've complied with their duties
- Target resources effectively

[Further guidance on monitoring](#)

7 Preventing Build-Up

The build-up of detritus can contribute to:

- An uncared-for impression of an area
- Blocked drains leading to localised flooding
- Concealed safety markings on surfaces
- Potential slip hazards
- Weed growth from seeds germinating in detritus
- High resource requirements to tackle detritus which is left to build up

Regularly removing detritus will:

- Prevent build-up of hard to remove materials
- Reduce the need for maintenance in other areas e.g. excess weed growth
- Improve the visual perception of an area
- Reduce the impact of potential health and safety issues

Potential sources of detritus — such as uncollected grass cuttings, leaf and blossom fall — should be removed as far as possible as part of an area's maintenance programme to avoid it becoming detritus. Seasonal considerations should be factored into cleansing regimes and care should be taken to ensure that debris, detritus and other materials don't become a danger to road users; and that sweeping doesn't impact on other services such as winter gritting.

Where responsibility for detritus removal and other maintenance is split between departments or organisations it is recommended that partnership agreements are put in place to ensure that schedules are synchronised, to reduce unintended consequences of the different job functions and provide effective and efficient servicing.

8 Partnership approach

It is recommended that duty holders adopt a partnership approach to fulfilling their duties. This can be with other duty holders or other relevant stakeholders.

Example 1 - Local Authorities and Road Operating Companies

Develop a partnership working arrangement to ensure there is synchronisation of each organisation's **work** schedules. This can **allow local authorities** access to **trunk** road networks to carry out duties during **traffic management required for other purposes**.

Example 2 - Internal partnerships

Identifying opportunities to work with other service providers within your own organisation to ensure land is maintained efficiently.

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