



Members Briefing

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

Prepared by: Zero Waste Scotland

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

1 Code of Practice on Litter and Refuse — background and key points

The Code of Practice on Litter and Refuse (CoPLAR) is a statutory guidance document issued under the Environmental Protection Act 1990 (EPA).

CoPLAR 2018 is the fourth version of the Code, and the second version to apply exclusively to Scotland. The new code takes a fresh and more sustainable approach to fulfilling the duties of the EPA and contains several changes and points of clarity.

CoPLAR offers guidance to duty holders in fulfilling the legal requirements of section 89 (1) and (2) of the Environmental Protection Act. It sets out exactly what their duties are, and is admissible as evidence in court proceedings if a body is taken to court for dereliction of its duties.

Organisations which are subject to the duties should have regard to the code which:

- focuses on prevention as a means of meeting the duties
- specifies grades to indicate the presence of litter, refuse and detritus
- outlines categories for zoning land based on the probability of litter occurring
- provides maximum timescales for restoring areas to acceptable standards; influenced by both the grade and zone

CoPLAR requires duty holders to:

- **Duty 1: Make sure their land, including roads (or land under their control) is clear of litter and refuse.**

Litter is considered to be “waste in the wrong place” where individual or a small number of items are thrown down, dropped or deposited in a public place by any person and left there. In addition, materials that have escaped from collection containers and vehicles should be treated as litter.

Refuse should be regarded as waste material or rubbish, including household and commercial waste, flytipped waste, dog faeces, animal carcasses and car parts. Refuse tends to be larger items than litter.

- **Duty 2: Make sure public roads are kept clean.**

The key consideration for this duty is keeping roads free of 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.

Local Authorities are primary litter authorities and are required to meet both duties – this applies to **all land and roads** owned and managed across the local authority that are publically accessible. It is not limited to the land maintained by the authorities’ street cleansing service. For these duties local authorities are also responsible for trunk roads other than special roads.

2 COPLAR — what's changed?

The big change is the promotion of a preventative approach. The Christie Commission (the Commission on the Future Delivery of Public Services) established that prevention is more efficient than treatment. Scotland's litter and flytipping problem costs an estimated £1 million every week – however, it's avoidable with the right approach, freeing up money for other public services.

There are no legislative changes, but the new code provides a fresh focus and contains several changes and points of clarity:

- **A new focus on prevention** — putting it on an equal footing with cleaning up
- **Clearer guidance** — on fulfilling statutory duties under the EPA
- **Zone categories** — based on the potential for litter to build-up in an area due to:
 - the number of people using an area
 - the type of premises or sites which are a potential source of litter
- **More consistency** — objective definitions of grades to identify the amount of litter and refuse on the ground
- **Improved clarity** — on the land in scope of the duties, and the duty holders required to meet them
- **Variable restoration times** — that give duty holders more flexibility and helps to prioritise action

This focus on prevention gives duty holders greater flexibility and a platform to change their approach to litter and flytipping management. The result will be land that's cleaner for longer, and a reduced reliance on expensive clean-up operations.

2.1 What COPLAR will mean for Local Authorities

Local authorities are regarded as Primary Litter Authorities: **all land** owned and managed by the local authority which is publically accessible is subject to the statutory duties outlined above. This includes everything from streets to parks, educational land to leisure facilities, cemeteries to gap sites. They will be required to zone all relevant land within 12 months of CoPLAR being adopted.

Local authorities should adopt a joined up approach across services to ensure compliance and embed prevention holistically by producing a Litter Prevention Action Plan.

The prevention focus will drive long term public behaviour change. Combined with better partnership working with internal and external agencies, this should help to avoid litter and flytipping occurring in our environment.

The focus on prevention also provides greater flexibility for Local Authorities to change their approach to litter and flytipping management, and achieve cleaner land for longer. They'll be encouraged to conduct a full review of the services provided and the resources required. Local Authorities should see investment in prevention as an integral part of their policy making and strategic planning processes.

2.2 What COPLAR will mean for communities

While the responsibility for meeting duties lies with the relevant duty holders, everyone has a responsibility to ensure they do their bit to avoid litter and flytipping occurring in the first place.

Communities will be encouraged to take personal responsibility for disposing of their waste items correctly by using the facilities available to them to avoid their waste becoming litter or flytipping. In return communities can expect cleaner and safer local environments.

2.3 The role of elected members in implementing COPLAR

As representatives of their community, elected members can play a central role in bringing together their local authority services, other duty holders and public bodies, local community organisations, residents, local businesses and private landowners to build a constructive partnership to tackle litter and flytipping proactively.

In addition, members can:

- **Encourage their local communities** — to take personal responsibility for their waste
- **Support a move towards prevention** — and assist a shift towards a more holistic approach to litter and flytipping management
- **Support the preventative approaches** — taken by the local authority, and communicate with residents to help them understand them
- **Help the public** — who have enquiries about litter and flytipping

3 What does prevention look like?

A prevention strategy is one that disrupts, mitigates or eliminates the causes by identifying them and implementing a course of action that minimises their chance of reoccurring. For litter and flytipping it means taking measures to stop it happening in the first place, or happening again. Moving away from reactive operational services to an approach which employs a range of tactics to prevent litter and flytipping.

Duty holders will be expected to strike a balance between meeting their duties around cleanliness and implementing prevention measures. Prevention tactics should be evidence based, identifying the contributing factors to the problem and evaluating the solutions employed. Where there is a possibility that short term build-up of litter and refuse will occur whilst preventative measures are being put in place, duty holders will be expected to have a strong communications plan in place to avoid unjust complaints and allow the preventative initiative to take effect.

Duty holders will have a series of routes and tactics available to help them implement prevention initiatives which encourage personal responsibility and behaviour change towards litter and flytipping. Prevention activities include:

- Communications
- Engagement
- Partnership working
- Infrastructure
- Improved monitoring
- Service optimisation
- Enforcement patterns
- Demand management

Monitoring all activities is key to ensuring that prevention approaches are having the desired effect, and should identify gaps in service delivery. Cleansing provisions should only be phased out in areas where evidence is available to indicate prevention measures are working.

Benefits of investing in prevention:

- Targeted, evidence based, strategically led preventative tactics can have big positive impacts on service delivery
- Increased partnership working and sharing resources
- Sustainable service provision and long term efficiency
- Targeted use of resources and assets
- Improved Local Environmental Quality

4 When it comes to litter, we're all responsible.

Duty holders are responsible for keeping land clear but members of the public and businesses have an equal and personal responsibility to prevent litter and flytipping by:

- Reducing the use of disposable items, for example by using only refillable coffee cups
- Using recycling facilities whenever possible
- Using a bin for items when on the go or take them home to dispose of properly, even for compostable items
- Ensuring their personal recycling and waste bins are secured to avoid any items spilling out
- Using reuse facilities to drop off unwanted furniture and other items
- Making use of authorised recycling and waste collection services and drop off points

5 Key messages to use with your communities

- Clearing litter and flytipping is estimated to cost Scotland £1 million each week. This is an avoidable expenditure
- Everyone is responsible for disposing of their waste responsibly by making use of the facilities provided to do so, by reducing the amount of single-use items they use and by considering alternative materials and buying options
- Preventing litter and flytipping needs a holistic approach and a range of tactics to influence behaviour change across a broad range of target audiences
- Partnership working will help achieve a collective impact. This includes 'joined-up' working with internal and external agencies
- Investing in prevention measures to change behaviours and increase personal responsibility is more sustainable than continuing with expensive clear up regimes
- CoPLAR 2018 provides clear guidance on fulfilling the duties of section 89 (1) and (2) of the Environmental Protection Act 1990
- CoPLAR 2018 is the first statutory guidance which places prevention on an equal footing with cleansing activity
- It provides clear guidance on land that is covered by the duty, to help organisations make sure they fulfil their requirements
- Restoration times take account of how quickly an area is likely to deteriorate and prioritises where significant accumulations of litter, refuse and detritus occur
- CoPLAR 2018 specifies grades to indicate the presence of litter, refuse and detritus, and response times for clearing these materials, in order to fulfil the duties.
- Zones are based on the probability of litter and refuse occurring, and influence response times, the more litter and refuse, the quicker it should be restored.

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