



Guide to Applying for a Litter Abatement Order

September 2005

The Legal Framework

The Environmental Protection Act 1990 (EPA) created anti-litter laws designed to improve the appearance and standard of cleanliness of public places.

Section 89 of the EPA places a duty on specified bodies to ensure that their land is, as far as practicable, kept clear of litter and refuse. Section 91 of the EPA sets out the possibility for members of the public to take legal recourse to to have litter removed from areas to which they have access.

In order to take legal action, you must decide whether the duty body responsible for the land has complied with the Code of Practice on Litter and Refuse, which accompanies the EPA (see <http://www.defra.gov.uk/environment/localenv/litter/code/>). Four grades of cleanliness are specified in the Code; examples of these grades are shown in Figure 1.

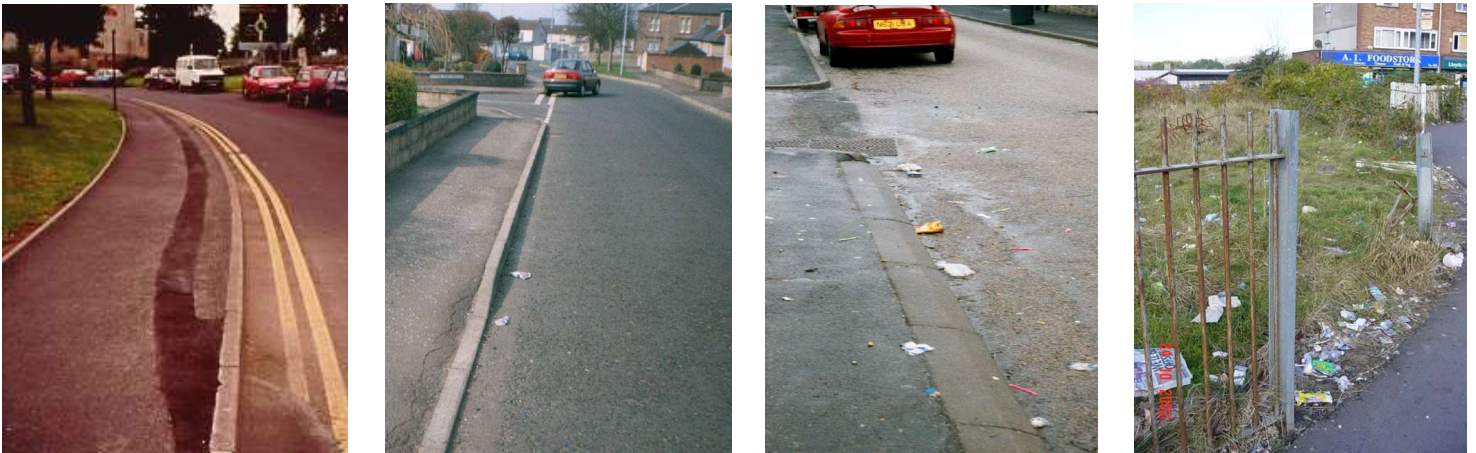


Figure 1. From left to right, examples of cleanliness Grades A, B, C and D

If a piece of land falls below grade A (litter-free) in cleanliness, a duty body may be responsible for cleaning up the land. Using Table 1, you should check the maximum length of time that a person 'aggrieved by litter' should have to tolerate land of a particular cleanliness grade. Depending on the level of cleanliness of the land, and the 'zone' (a land use classification), the land should be returned to an acceptable level of cleanliness in the response times indicated. Duty bodies should achieve this as a matter of course, but if an aggrieved citizen notifies a duty body of a lack of cleanliness, then it should be cleansed before the recommended time period has elapsed. Under certain conditions, for example during extreme weather conditions, or around the Christmas period when staffing problems may occur for duty bodies, they may be exempt from the recommended response times. Also, these response times only apply during the period 6am-8pm.

Table 1. Cleanliness Standards and Response Times

Zone		Cleanliness Standard			
		A	B	C	D
1	Town centres, shopping centres	←	6 hours	3 hours	1 hour
2	High density residential	←	12 hours	6 hours	3 hours
		←			
		←			
3	Low density residential	←	2 weeks	12 hours	6 hours
		←			
		←			
4	All other areas	←	2 weeks	1 week	60 hours
		←			
		←			
5a	Beaches (popular)	←		1 May - 30 September	
5b	Other beaches	←		As necessary	
6a	Motorways and trunk roads (hard surfaces)	←		4 weeks	1 week
		←			
6b	Motorways and trunk routes (grassed areas)		←	4 weeks	1 week
			←		
7a	Local roads (hard surfaces)	←		2 weeks	5 days
		←			
7b	Local roads (grassed areas)		←	2 weeks	5 days
			←		
8a	Educational institutions (hard surfaces, term time)	←		24 hours	24 hours
		←			
8b	Educational institutions (grassed areas, term time)		←	24 hours	24 hours
			←		
9	Operational railway land within 100m of platform ends		←	2 weeks	5 days
			←		
10	Other operational railway land within urban areas		←	6 months	3 months
			←		
11a	Canal towpaths in urban areas (paved areas)	←		2 weeks	5 days
		←			
11b	Canal towpaths in urban areas (grassed/ non-paved areas)		←	4 weeks	1 week
			←		
12	Public land attracting large numbers of people	←	24 hours	24 hours	24 hours
		←			
		←			

Having satisfied yourself that the duty body has failed in its duty to keep the land clean of litter and refuse, you can apply for a Litter Abatement Order, which requires the duty body to fulfil their duty to keep the land free of litter.

Your grounds for taking the duty body to court would be that it has failed to meet the cleanliness standards as set out in the Code of Practice on Litter and Refuse. If possible, you should have written or photographic evidence to support your case. You then submit an application to the appropriate Magistrates' Court.

- Any 'aggrieved person' can apply for a Litter Abatement Order. You might be a local resident, someone who works in the area, a regular visitor, or someone else who has a genuine interest in the locality and, therefore, a right to demand proper standards of cleanliness there. You could be an individual representing a local community organisation or voluntary group with an interest in the locality.
- The law applies to any kind of litter. Litter is counted as 'any thing that a person throws down, drops, or otherwise deposits and leaves... which causes defacement by litter to any place to which the legislation applies'. Chewing gum and all smoking-related products are specifically defined as litter. Food is also considered to be litter. Dog faeces is not litter, but it is classed as refuse. As such, it is subject to the Code of Practice on Litter and Refuse; dog faeces must be cleared away from prescribed areas in accordance with the cleanliness standards.
- A Litter Abatement Order may be made against any body with a 'duty' under the EPA. Primary responsibility lies with 'principal litter authorities', which in Wales are local authorities. This responsibility includes all adopted non-trunk roads, highways, and pavements. Other duty bodies include the Crown, Network Rail, operators of canals, ports, and airports, and governing bodies of educational institutions. The government department with responsibility for trunk routes (the Department for Transport) is the duty body for motorways and trunk roads. Other owners of land to which the public has access, such as water companies, may also be subject to the provisions of the EPA.
- Privately owned land that is not open to public access is not relevant as far as litter cleansing is concerned. Even if litter and refuse are visible, if it is not 'relevant land' you will not be able to apply for a Litter Abatement Order against the owner.
- Your complaint must be addressed to the person with responsibility for the land, e.g. the Chief Executive of local authorities, or the Chairperson of the Board of Governors of a school. In most

cases, the owner or occupier will be fairly obvious. In cases of doubt, a direct enquiry to the local authority or occupier of the land will usually obtain the answer. Where no owner can be traced, you will need to apply to the Land Registry for information, for which a fee will be charged.

Next Steps

You must give at least five days' written notice that you intend to apply for a Litter Abatement Order. This is to give the duty body a chance to clean up the land. However, the Code of Practice makes it clear that there will be certain circumstances when it is appropriate to allow a longer period of time for the duty body to clean up, for instance, where public safety is a consideration. This might be as much as two to four weeks. You will therefore have to bear in mind the requirements of the Code in your particular circumstances and you should not assume that if you give five days' notice, you will automatically be entitled to apply for a Litter Abatement Order at the expiry of five days.

However, you will be able to proceed after the period allotted by the Code of Practice for cleaning up (Table 1), however long this is, if action has not been taken and if you have given not less than five days' notice of your intention before doing so.

Before putting the duty body 'on notice', it is advisable to make a formal complaint stating that you intend commencing legal proceedings in the absence of improvement. They may take action upon receiving your complaint. Keep copies of any letters that you write, and take photographs, if possible. These may help strengthen your case. An example of a complaint letter is shown in Annex 1.

If the situation remains unsatisfactory after the allocated time period under the Code of Practice has elapsed, you should write again to the duty body, letting them know that you intend to apply for a Litter Abatement Order. This starts the five-day period of notice. An example of such a letter is shown in Annex 2. Note that the Magistrates' Court specified should be the one relevant to the area to be cleaned.

If at least five days have elapsed since your Notice of Application for a Litter Abatement Order, and there is no practicable reason why the land has not been cleared of litter and refuse, you can apply for a Litter Abatement Order.

You should send a dossier of information to the Magistrates' Court specified in your Notice of Application. The dossier should include copies of your previous letters, photographs (including dates

and times) where appropriate, and any supporting witness statements from other members of the public. The more details you have, the more powerful your case will appear to the Magistrates.

You may go in person to the Magistrates' Court, where a Clerk should help you fill in the necessary forms, or you may write to them, in which case you should get a response detailing the steps you need to take to complete the process. You may be required to sign your complaint in the presence of an official of the Court. An example of a letter to the Court is shown in Annex 3.

Fees are payable to the Court by the complainant upon application for a Litter Abatement Order. They are approximately £5 for making the complaint, and the same amount for the issue of a Summons. A larger fee is payable for making an Order, of around £20.

On hearing the complaint, if the Court is satisfied that there was cause for complaint at the time it was made and that there were reasonable grounds for bringing the complaint, the Court may order the defendant to pay a reasonable sum in respect of the complainant's costs. This means that even if the litter is cleared away by the time the case is heard, the Court can still award costs to you.

If, on being summonsed, the duty body pleads guilty at the hearing, the Court will make the relevant Litter Abatement Order requiring the land to be cleaned. If the defendant pleads not guilty, a new date will be set for a hearing at which you will have to put your case. If you win your case, the Magistrate will make a Litter Abatement Order.

In the vast majority of cases the land will be cleaned up before the case reaches the Court. However, if your case does proceed, the duty body is at liberty to try to find grounds on which to defend the case. In that eventuality, as with any legal proceedings, you will need to be prepared for the process being more long and complicated than with a straightforward admission of guilt. You should assume that a duty body opposing a complaint will have access to professional legal advice.

If the duty body fails to comply with the Litter Abatement Order they will be guilty of an offence and can be fined up to £2,500 and £125 for each day thereafter that the offence continues.

This legislation is intended to be used by the public to improve the cleanliness of local environments. Knowing your rights to a clean environment should help you to press your case, even if you decide not to take court action.

Annex 1

Litter Complaint Letter

The Chief Executive,

[name and address of duty body]

[date]

Dear Sir/Madam,

I am writing to complain about the amount of litter that has built up at[identify location – be specific]. This area has not been clean for [days/weeks/months].

Under Section 89 of the Environmental Protection Act 1990 it is your statutory duty to ensure that relevant land is kept clear of litter and refuse so far as practicable. I believe that the land in question is relevant land under the terms of Section 86 (4)¹.

Having regard to the standards set out in the Code of Practice on Litter and Refuse, you are failing in that duty.

Bearing in mind the timescales set out in the Code of Practice, should this work not be put in hand I intend to apply to a Magistrates' Court for a Litter Abatement Order under Section 91 of the Act.

I look forward to a speedy response, with details of the action you propose to take.

Yours faithfully,

[Your name]

¹Use (4) for relevant land of a local authority, and replace with (5) for relevant Crown land, (6) for relevant land of a statutory undertaker such as a Train Operating Company, Network Rail or canal landowner, and (7) for relevant land of an educational institution.

Annex 2

Notice of Application for a Litter Abatement Order

The Chief Executive,

[name and address of duty body]

[date]

Dear Sir/Madam,

I wrote to you on[date] asking for attention to be given to cleaning the litter and refuse at[state specific location].

I have received [no response] OR [an inadequate response] OR No action has been taken on my complaint OR The action taken has not resulted in all the litter and refuse being cleared away as a result of my complaint to the extent necessary to comply with your duty under Section 89 of the Environmental Protection Act 1990. Accordingly, I am now giving you written notice as required by Section 91 (5) of the Environmental Protection Act 1990 of my intention to make a complaint to the[name of the relevant Magistrates' Court].

The complaint will relate to your failure to keep[identify piece of land] clear of litter and refuse as required by Section 89 of the Act.

I hope that you will take the necessary action to meet your legal duties. Failing that, I shall go ahead and make an application for a Summons.

Yours faithfully,

[Your name]

Annex 3

Complaint for Litter Abatement Order

Magistrates' Court

(Code)

Date :
Defendant :
Address :

Matter of complaint : That the complainant is aggrieved by [the defacement by [litter] [refuse]] [the want of cleanliness] of²

; that the defendant has a duty to keep [the said land clear, under Section 89 (1)] [the said highway clean, under Section 89 (2)] of the Environmental Protection Act 1990;

and the complainant now therefore makes application to the Court to make a Litter Abatement Order under section 91 (6) of the Environmental Protection Act 1990 requiring the defendant to [clear the [litter] [refuse] away] [clean the said highway].

The complaint of :
Address :

Telephone number :

who [upon oath] states that the defendant was responsible for the matter of complaint of which particulars are given above

Taken [and sworn] before me

[Justice of the Peace] [Justice's Clerk]

² Insert particulars of relevant land, highway, or trunk road, as appropriate