



REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 24 AUGUST 2017

CODE OF PRACTICE ON LITTER & REFUSE (Scotland) 2017 CONSULTATION RESPONSE

1 Recommendations

The Committee is recommended to:

- 1.1 Consider the impact and implications of the requirements of the statutory guidance on keeping land free of litter and refuse and to keep roads clean; and
- 1.2 Approve the consultation response (see Appendix 1) to be submitted to Zero Waste Scotland by 25 August 2017.

2 Background

- 2.1 The Code of Practice on Litter and Refuse (COPLAR) provides practical guidance on fulfilling the duties under the Environmental Protection Act 1990, Section 89 (1) to keep land clear of litter and refuse and (2) to keep certain roads clean. Bodies which are subject to the duties should have regard to this code which:
 - outlines the standard required for each duty;
 - supports prioritisation of where and when to tackle problems;
 - provides maximum timescales for restoring areas to the standard.
- 2.2 There are several changes, compared with the previous code:
 - Equal emphasis on both duty 1, to keep land clear of litter and refuse and duty 2 to keep certain roads clean;
 - Emphasis on the role of prevention (for duty 1);
 - Revised grades and response times for each duty ;
 - Greater clarity about where litter/refuse should be removed from;
 - Bodies are also encouraged to undertake robust monitoring and there is now monitoring of both duty 1 and duty 2;
 - Monitoring for duty 1 is not just on hard surface areas such as pavements and roads, but on all relevant land under our control.
- 2.3 A benefit of the prevention focus is that it provides bodies with the flexibility to shift from reactionary measures to more sustainable approaches. The conclusion that prevention in public services is more efficient than treatment was identified by the Commission on the Future Delivery of Public Services (The 'Christie Commission'). However, as the duty body for the removal of litter and refuse on relevant land under our control, we still would have that responsibility even if the prevention activities are unsuccessful.

- 2.4 The code also aligns with the Scottish Government's national litter strategy, Towards a Litter-Free Scotland, which encourages personal responsibility in order to reduce the need for expensive clean-up or enforcement action.
- 2.5 The code is admissible evidence in court proceedings in regard to a complaint made by any person aggrieved the defacement by litter or refuse and any litter abatement notice served by the authority relating to the dereliction of duties under sections 91 and 92 of the Environmental Protection Act (as amended by the Antisocial Behaviour etc (Scotland) Act 2004).
- 2.6 This is the fourth COPLAR issued under Section 89 (7) of the Act. The first (in 1991) was replaced in 1999, and covered Scotland, England and Wales. The third (2006) applied exclusively to Scotland. This new version replaces it.
- 2.7 The Act places duties on local authorities and others to ensure so far as is practicable, that their land (or land which is under their control) is kept clear of litter and refuse and that public roads (for which the body is responsible) are kept clean. This means roads should be free of detritus which includes dust, mud, soil, grit, gravel, stones, rotted leaf and vegetable residues, 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.
- 2.8 These duties apply seven days a week throughout the year. The code supports the duties by setting a standard for each. It also provides the maximum timescales that an area should be restored to the standard.
- 2.9 The code provides a series of grades to determine how well an area meets the standard, which is A-grade, or how significant its deterioration is. The COPLAR grades are: Duty 1: six grades, A-F, Duty 2: four grades, A-D.
- 2.10 Zero Waste Scotland has also produced Zoning Guidance as a means of allowing Duty Bodies and Statutory Undertakers to prioritise how cleansing operations are deployed based on the likelihood of litter and refuse building up in an area.
- 2.11 The speed and intensity of the generation of litter and refuse is dependent on a number of factors. These include footfall numbers, vehicular movements, location, weather, population density, physical environment, time of year, and types of property/business/commercial activity. However, there are two common factors attributing to litter generation that can be applied across Scotland which can be measured directly:
- Intensity of footfall/vehicular movement; and
 - Type of sites/premises in an area (Potential Litter Generators).
- 2.12 The first step towards fulfilling either duty is for bodies to categorise their land/roads as one of six zones - based on how busy each area is, and how many potential sources of litter it has. The code links the zone categories to the maximum time a body has before it should restore an area to the

standard. The maximum response time is determined by how far from the standard a zone has deteriorated.

- 2.13 Aberdeenshire Council will need to rezone all areas under our control to take account of differences in footfall/or activities which influence how quickly an area can become littered. For example, within a town centre, a Grade B area could rapidly become a D while a country lane could remain as a B for several days. We also require to make the information public by producing a web based map showing the following:
- Zone 1 – Extremely high footfall – average hourly footfall/vehicle movement of more than 1000 at the busiest point.
 - Zone 2 - High footfall – average hour footfall/vehicle movement of between 601 - 1000 at the busiest point.
 - Zone 3 – Moderate footfall – an average hourly footfall/vehicle movement of between 301 - 600 at the busiest point.
 - Zone 4 – Low footfall – average hourly footfall/vehicle movement between 101 - 300 at the busiest point.
 - Zone 5 - Extremely low footfall – average hourly footfall/vehicle movement of less than 100 at the busiest points.
 - Zone 6 – takes account of roads and railway land where health and safety considerations are required to be taken into account to ensure any maintenance can be scheduled in a practical way.
- 2.14 It is anticipated that Aberdeenshire Council will only have zones 3, 4, and 6.
- 2.15 An area which has no litter or refuse does not need to be cleaned. Bodies should therefore consider what they can do to encourage people not to litter in the first place.
- 2.16 Zones which do not meet the standard need to be restored. The principle behind how quickly this should happen is that significant deterioration should be restored as a priority - to prevent accumulations occurring. So the bigger or more dangerous a litter or refuse problem is, the faster it should be tackled. For minor deteriorations, longer response times are acceptable.
- 2.17 The code sets the maximum times that bodies have to restore their zones to the standard when their COPLAR grades deteriorate. Bodies are free to set themselves more challenging response time targets. They should take account of complaints about zone cleanliness.
- 2.18 In most zones, the standard can be restored within a body's normal operational hours. If the standard in zones 1 to 3 falls in the evening, this code recognises that it may not be practical to restore to an A grade within the response times identified. The time between midnight and 06:00 the following day can therefore be discounted for assessing compliance.

- 2.19 The basic response times are based on a body allocating between 0 and 10% of its overall litter and fly-tipping spend on prevention tactics. The response times can be increased in proportion to spend on litter and refuse prevention.
- 2.20 Litter and refuse clearance will not count as prevention spend. Although it supports preventing further problems, the motivation for deploying it is to restore zones to the standard. However, activities that improve local environmental quality would be considered preventative spend. Bodies must be able to clearly demonstrate how they allocate their expenditure if asked by a court to do so.

Aberdeenshire Council's response to the COPLAR consultation

- 2.21 The authority's comments on the Zero Waste Scotland COPLAR Consultation are included in **Appendix 1** to this report. In future, a major revamp and concerted consultation exercise for rezoning and deployment of resources by all services of the Council including Roads, Landscape and Waste Management, Business Services – Property, Education and Children's Service will be undertaken to ensure our statutory duties are complied with.
- 2.22 Support from Zero Waste Scotland and Keep Scotland Beautiful would be available to assist us to identify the best solution for Aberdeenshire that fits within the overall direction of the COPLAR. A further report will be presented outlining the full implications for Aberdeenshire Council once the outcome of the current Zero Waste Scotland consultation with all bodies which are subject to the duties under the Code of Practice is known.
- 2.23 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3 Scheme of Governance

- 3.1 This report is being submitted to the Committee to consider and approve a Council response to an external consultation on a policy matter falling within the delegation of the Committee in terms of Section F.3.2 of the List of Committee Powers in Part 2A of the Scheme of Governance.

4 Equalities, Staffing and Financial Implications

- 4.1 An equalities impact assessment is not required as the content of this report has no differential impact on persons with protected characteristics.
- 4.2 There are no direct staffing implications arising from this report.
- 4.3 There are no direct financial implications arising from this report. However, future additional mechanical resources, capital and revenue expenditure may be required to fulfil obligations to keep all of our land clear of litter and refuse, especially in regard to the proposed requirement to include detritus removal from all roads.

Stephen Archer
Director of Infrastructure Services

Report written by Donald Raymond and Andy Sheridan, Team Managers
14 August 2017



Appendix 1

CONSULTATION REPONSE TO THE DRAFT CODE OF PRACTICE on LITTER and REFUSE (Scotland) 2017 (COPLAR)

Who are you responding on behalf of?

Duty body/Statutory Undertaker.

Does this draft guidance provide practicable guidance on how to fulfil the duty to keep land clear of litter and refuse?

To some extent. The guide gives clearer definitions of both litter and refuse and the areas of responsibility for duty bodies. However how to fulfil the duty is up to the duty body.

Does this draft guidance provide practicable guidance on how to fulfil the duty to keep roads clean?

To some extent. This guide gives a clear definition on detritus and the responsibility of the duty body to keep roads under their control clean. However how to fulfil the duty is up to the duty body.

Are definitions provided in the draft guidance to make it clear when and where the duties apply?

Yes. This is clear as to where the duties apply.

Does the inclusion of prevention activities increase flexibility in how organisations fulfil the duty to keep land clear of litter and refuse?

To some extent. Prevention is a key strategy for reducing littering. By preventing littering taking place then this should allow resources to be targeted where they are needed most. However the success of prevention methods can be difficult to measure especially in the short term and the duty body will still have the responsibility for removal of the litter and refuse should prevention not work.

Does the inclusion of more objective methods of measuring grades help remove ambiguity and improve consistency?

Yes. The method of measuring grades by actually having counts on the level of litter is a more objective method and will allow more consistent results.

Does the inclusion of more objective methods of allocating zoning help remove ambiguity and improve consistency?

Yes. As this includes footfall and the number of litter generators in the allocation of zones, they become more relevant and allow duty bodies to target their resources accordingly.

Please provide any other feedback on the document including additional information to support previous answers

The revised COPLAR is a much clearer document with regard to definitions of litter, refuse and detritus and where responsibilities lie for duties 1 and duty 2. There are several key changes in this code compared to the old one, particularly in regard to what the duties are, who and where they apply, zoning of all areas under Council control, more emphasise being put on prevention, response times and monitoring. In order to comply with the code, the service will need to look at how it discharges its

responsibility for cleansing to ensure that all resources are deployed where they are needed most and that all areas under Council control are included.