

Mud on the Highway Policy

1. Scope

- 1.1 This Policy refers to instances where trade activities from an owner/occupier or contractor of land or property adjacent to a Highway maintainable at public expense deposit soil or other debris upon the Highway. The definition of a public highway includes footpaths and adjacent verges as well as the road itself.
- 1.2 This problem is mainly caused by heavier vehicles such as tractors and lorries leaving sites which are under development, quarries or agricultural fields which are being worked in; it occurs more frequently when the weather is wetter. It would not normally apply to reasonable use of the Highway from residential properties.

2. Objective

- 2.1
 - To seek an improvement in the visual streetscene by the prevention and reduction of unsightly debris illegally deposited on the Highway.
 - To remove deposits from the Highway that may constitute a road safety hazard for Highway users – in particular, mud is considered to be a danger to users of the highway because it may cause skidding and lead to accidents. This can be accelerated in adverse weather conditions.
 - To minimise disruption to nearby residents by ensuring developers and businesses abide by the relevant legislation.
 - To assist in statutory duty of the Highway Authority in keeping the Highway clear.
 - Prevent choking of street gullies and subsequent flooding.

3. Link to Council Plan

- 3.1 Ensuring that all neighbourhoods are safe, clean, green and well maintained is one theme of the seven priorities for the Corporate Plan 2006-08. Improving the physical appearance and condition of the streets and immediate surroundings to improve quality of life helps support this aim.
- 3.2 This Policy contributes to The Vision for Leeds 2004-2020 to make Leeds an internationally competitive city and the best place in the country to live, work and learn, with a high quality of life for everyone.

4. Application of the Environmental Enforcement Policy

- 4.1 “Paragraph 2.1 Shared Enforcement Role” - Before proceeding with any action officers shall consider if there is a shared or complementary enforcement role with other agencies e.g. Planning Department and liaise with that agency.
- 4.2 “Paragraph 5.1.1 – Statutory Notices shall be served to require offenders to cease contravening activities or give an offender reasonable time to rectify a contravention”.

- 4.3 “Paragraph 5.3.- Prosecution” and “par 5.3.4/5.3.5 - Failure to comply with lawful requirements” and history of non-compliance. Legal action will therefore be taken when there is a breach of legislation following a warning.

5. Legislation

- 5.1 Section 151 of the Highways Act 1980 requires an operator to do such works as are necessary to prevent soil from being carried onto the street. Penalty for failure to comply is a fine. If, after prosecution, it is clear that the prosecution is not going to deter the operator from criminal activity, the authority could then apply for an injunction (see 5.3).
- 5.2 Section 149 of the Highways Act 1980 “If any thing is so deposited on a highway as to constitute a nuisance, a Highway Authority may by way of a notice require a person who deposited it there to remove it forthwith”.
- 5.3 Section 222 – Local Government Act 1972 – This Act gives local authorities the right to institute civil proceedings in their own name to promote or protect the rights of the inhabitants of their area and prohibit a person from continuing to be a public nuisance.
- 5.4 Under Byelaws for Good Rule and Government of the City of Leeds 1972 - Byelaw 11 - mud fallen from vehicle must be removed from road and vehicle must not be brought onto road until mud removed from wheels. Failure to do either is an offence resulting in a fine.

6. Policy

- 6.1 Upon receipt of a complaint, an Enforcement Officer will assess the complaint and visit the site to gather evidence and take photographs. The officer will ascertain who the person(s) or company is that is causing the mud on the road.
- 6.2 If the offence is emanating from a development or quarry, liaison will take place with the Development Department (Planning Compliance and Minerals Team) before pursuing action to assess whether Planning Conditions stipulate wheel washers need to be in place. Dependent on the outcome of this, follow up enforcement action will be taken by the relevant department(s).
- 6.3 Once identified, the offender will be contacted and told that arrangements must be made immediately to clear the road of all debris and a Section 151 (Highways Act 1980) notice will be served upon the offender to ensure the road is cleaned and made safe and preventative measures put in place to ensure no future instances arise.

The timescale for clean up will be reduced to immediate should there be a risk of adverse weather conditions, e.g. ice or snow. The process for clean up during winter conditions needs to consider that the usual method of washing with water can create an additional safety hazard of ice formation. Should such instances arise, the City Council may need to grit the Highway for safety. A charge will be levied to the person or company creating such a hazard.

- 6.4 If Leeds City Council’s Environmental Services have to intervene and clean the Highway, the costs of this will be sought from the offender whether or not a prosecution is commenced.

- 6.5 The situation will then be monitored closely with view to prosecution action being taken for further instances that occur. A summons will be issued for each and every day an offence is identified following the notice expiry.
- 6.6 Injunctions may be sought against repeat offenders or prior to prosecution where a serious instance has occurred and an initial notice has been ignored. Previous history will also be taken into account. Costs of such legal action will be sought.
- 6.7 If it is not possible to trace the offender, then the Officer will contact the Council's Environmental Services and arrange for a road sweeper to clear the road as soon as possible.