



GOOD RIDDANCE TO BAD RUBBISH

An Action Guide for
Passengers and Others





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C O N T E N T S

3 Introduction

4 Where does the responsibility for clearing litter lie?

What does the code say?

Litter Duty: Railway Land

5 Clearance standards

6 Is the code enforceable?

Who should clear what?

Litter on platforms and areas accessible to the public

Litter on the trackbed

Litter on other operational land

Litter on other railway land

9 Enforcement

Evidence

Applying to the courts

10 Model letters

Letter A

Letter B

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Introduction

Too many of our public spaces are blighted by litter. It is an ever present problem on the railways, sadly inflicted upon both the public and railway companies by an anti-social minority of passengers and neighbours. It is an eyesore at best, and a health hazard at worst. Many rail users feel threatened in dirty, dark, graffiti-covered stations and vehicles. The presence of litter reinforces an air of squalor and the perception that the railway is a poorly managed environment. Railway operators do not cause this problem, but it should be very much in their commercial interest to tackle it.

The removal of station litter bins from large parts of the system, prompted by a recommendation of the British Transport Police for reasons of security, has made the problem even more difficult to manage. Gaining access to the track and other operational land to clear it is restricted by operational and safety concerns.

Nevertheless, those who operate the railways have legal responsibilities for litter control and must do all that they reasonably can to fulfil them.

The Rail Passengers Committees and London Transport Users Committee had high hopes in March 2001 when the Environment Minister, Michael Meacher, launched a new Code of Practice on Litter and Refuse, declaring that "It's war on litter". Sadly, that pronouncement proved over optimistic, and change for the better has come slowly – if at all – on the railways. Station platforms and other public areas are generally kept reasonably free of litter, but other railway land is too often in an unsatisfactory state. The procedures in place are not yet rigorous enough to ensure a lineside free of litter.

The Committees are keen to see the litter control provisions of the Environmental Protection Act take full effect. We believe that much can be done by local authorities and individual

citizens to encourage railway operators and land owners to comply with both the letter and spirit of the legislation.

Of course, we do not condone the anti-social behaviour of those who create this problem. So we expect the relevant authorities not only to fulfil their legal duty to remove litter but also to be vigilant in pressing the police to promote prosecutions against those caught in the act of littering railway premises. And we welcome partnerships between railway operators, local authorities, passenger groups and others to raise awareness of the issue amongst law enforcement agencies and judicial authorities.

This briefing is written to help passengers and local authorities to encourage the railway operators to fulfil their legal duty to keep their land free of litter. We hope you will find it a useful introduction to using the procedures it describes. We are grateful for the help given by the Tidy Britain Group in compiling it.

GOOD RIDDANCE TO BAD RUBBISH

Where does the responsibility for clearing litter lie?

Companies running stations and railway infrastructure are classed as “statutory undertakers” for the purposes of litter removal. They have a duty under the Environmental Protection Act to keep their land in urban areas as free from litter as is practicable, in order to maintain the standards set out in the Government’s *Code of Practice on Litter and Refuse* (available from The Stationery Office, ISBN 0-11-753479-X).

What does the Code say?

The Code describes the various types of railway land and explains the clearance standards set for different types of area (called zones). The standards for the public areas of the busiest stations are naturally higher than for operational land



(such as the trackside) in urban areas. The only areas of railway land that are not covered by these demanding standards are those where the railways run through the countryside. The standards set down are rigorous (see table and pictures below). The main area of uncertainty applies to the time scale for clearing operational land. Obviously, there can be safety and operational problems to be overcome when clearing railway tracks of litter, and for this reason the Code allows some flexibility, permitting litter clearance to be delayed until it can be performed at the same time as track maintenance work. See clearance standards opposite.

Litter Duty: Railway Land

Zone	Type of land	Clearance standard			
		A	B	C	D
1	Public areas in and around major passenger stations in cities and town centres.	Achieve after cleaning	Restore to grade A within 6 hours	Restore to grade A within 3 hours	Restore to grade A within 1 hour
2	Public areas in and around heavily used suburban and important town stations	Achieve after cleaning	Restore to grade A within 12 hours	Restore to grade A within 6 hours	Restore to grade A within 3 hours
3	Public areas in and around intermediate suburban and small town stations which are staffed at least part of the time	Achieve after cleaning	Restore to grade A within 1 week	Restore to grade A within 12 hours	Restore to grade A within 6 hours
3	Public areas in and around intermediate suburban and small town stations which are unstaffed at all times	Achieve after cleaning	Restore to grade A within 1 week	Restore to grade A within 48 hours	Restore to grade A within 24 hours
4	Public areas in and around rural and small suburban	Achieve after cleaning	Restore to grade A within 2 weeks	Restore to grade A within 1 week	Restore to grade A within 60 hours
9	Operational land within 100 metres of platform ends (excludes land used solely for the provision of freight services)		Achieve after cleaning	Restore to grade B within 2 weeks	Restore to grade B within 5 days
10	Operational land within urban areas not covered by other zones (excludes land used solely for the provision of freight services)		Achieve after cleaning	Restore to grade B within 6 months	Restore to grade B within 3 months

The four grades of cleanliness quoted in the table are:

- GRADE A no litter or refuse
- GRADE B predominantly free of litter and refuse apart from some small items
- GRADE C widespread distribution of litter with minor accumulations
- GRADE D heavily littered with significant accumulations.

Clearance standards



GRADE A Free from litter



GRADE B Not much litter apart from a few items



GRADE C Quite a lot of litter with small build-ups



GRADE D A lot of litter with large build-ups

It is important to refer to both these pictures and the table opposite.

PLEASE NOTE: these pictures are of trackbed, however similar standards apply to other areas of land.

Is the Code enforceable?

The code is admissible as evidence in a magistrates' court in England and Wales or a Sheriff's court in Scotland. Either a local authority or an 'aggrieved citizen' may apply for a Litter Abatement Order. Some local authorities are more active than others and so a call to your local authority may be the easiest course of action. The fees for bringing such an action, which are recoverable at the discretion of the court, amount to £23.50 in total. The penalties which can be imposed are considerable : £2500 plus £125 per day thereafter. So giving notice of intent to seek an Order is often enough to prompt action by the relevant railway operator without going to the court. Notes on enforcement and model letters based on the Tidy Britain Group's Action Guide are contained in this report, and a list of magistrates' and sherrif's courts appears as an insert.



Who should clear what?

On the main line railways, responsibility for clearing litter is divided between the station operator (usually a train company) and the infrastructure operator (usually Railtrack). In most cases the distinction is clear. The station buildings and platforms are the station operator's responsibility, and the operational areas such as the trackbed and trackside land are Railtrack's. But there may be some areas associated with the station which are also Railtrack's responsibility. These are usually fenced off from the public. If there is any doubt you should assume that the responsible party is Railtrack, which is the landowner and will know which parts have been leased to the station operator. A notice at the station will identify the appropriate station operator. Relevant addresses are included in the insert which accompanies this report.

This distinction does not apply in the case of London Underground and

some other railway operators whose stations and infrastructure are owned and managed by a single organisation, which is responsible for clearing litter wherever it occurs.

Litter on platforms and areas as accessible to the public (Picture 1)

This is the responsibility of the station operator. These public areas have the most stringent clearance standards. If you feel that the cleanliness falls below the standards shown in the Code of Practice, you should write to the station operator (whose address will be available at the station), quoting the Code and stating the clearance standard you expect. You should ask when it intends to schedule the cleaning. For example, if the platform or any other public area of a staffed suburban station (in zone 3, according to the Code of Practice) is littered like Grade C above, then it should be cleaned to Grade A within 12 hours.

Picture 2



Litter on the trackbed or other operational land up to 100 metres from the platform ends (Picture 2)

The railways differ from other bodies with a legal responsibility for clearing litter, because they are also responsible for clearing some types of land that is not accessible to the public. Most obviously, this includes the trackbed and other operational areas (such as embankments and cuttings) up to 100 metres from the platform ends. These areas fall in zone 9. If you feel that their cleanliness is below the standards set in the Code of Practice, you should write to Railtrack quoting the Code and stating the clearance standard you expect it to achieve. You should ask when it intends to schedule the cleaning. For example, if a trackbed is littered like Grade C above, it should be cleaned to Grade B within 2 weeks.

You should note that although the clearance standards and response times given in the Code should be

adhered to as far as is practicable, the Code recognises that on the railways there may be problems relating to access, safety and train movement. In these circumstances, it advises that 'the first practicable opportunity should be taken to undertake litter clearance in conjunction with track maintenance work'.

You may find areas of operational

land that have not been leased to the station operator although they are clearly associated with the station. The picture below illustrates such a division of responsibility. The platform is being cleaned but the station operator's responsibility does not extend to the fly-tipped area nearby.

Ideally, such areas should be cleaned to a standard similar to that of the station they adjoin, which would place them in zone 3. But the regulations do allow them to be zoned similarly to the trackbed, i.e. to be placed in zone 9. According to the Code of Practice, land such as the heavily littered area in this picture should be cleared within five days or – where this is impracticable – it should be cleared at 'the first practicable opportunity ... in conjunction with track maintenance work'.

If you feel that the cleanliness of such an area is below the standard set in the Code of Practice, you should write to Railtrack quoting the Code and stating the clearance standard you expect it to achieve. You should ask when it intends to schedule the cleaning.

Picture 3



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Picture 4



Litter on other operational land within urban areas (i.e. beyond 100 metres from the platform ends)

(Picture 4)

This type of land falls into zone 10. If you feel that its cleanliness falls below the standard shown in the Code of Practice, you should write to Railtrack quoting the Code and stating the clearance standard you expect it to achieve. You should ask when it intends to schedule the cleaning

For example, if an embankment is littered like Grade D, it should be cleared to Grade B within three months or – where this is impracticable – it should be cleared at ‘the first practicable opportunity ... in conjunction with track maintenance work’. It would be disappointing if, in practice, no such opportunity arose in less than three months.

Litter on other railway land

If approaches to railway operators about litter on areas of railway land other than those described here (which will be mainly in rural areas) are unsuccessful, action by a local authority may be necessary. Section 90 of the Environmental Protection Act 1990 enables a district council to designate land of ‘a prescribed description’ as a Litter Control Area, if the council considers that the presence of litter or refuse on that land is detrimental to the

amenities of the area and is likely to remain so. This places a duty on each occupier of such land to ensure that it is kept clear of litter and refuse, so far as is practicable. Failure to discharge this duty may result in the occupier being taken to a magistrates’ or a sherrif’s court, either by an aggrieved citizen or by the council. In these cases, you should encourage the local authority to take action in the first instance.

Litter on non-railway land

There may be areas of private land which are not in the control of any railway operator but which are nevertheless an eye-sore for passengers (e.g. if they adjoin a station). Securing the com-

pulsory removal of litter from land of this kind requires action by the local authority in the first instance. The legal position is the same as that described for “litter on other railway land”.

Enforcement

If there is no response (or no adequate response) by the appropriate railway operator to your letter, you can invoke the enforcement procedure contained in the Environmental Protection Act.

In the first instance you may wish simply to leave the details with Railtrack (whose 24-hour telephone contact number is 08457 114141), or to contact the appropriate station operator in the case of the public areas at a station, advising them of what you have in mind. This may prove sufficient.

But if it does not have the desired effect, then the Environmental Protection Act lays down that you must give the relevant operator at least five days written notice that you intend to apply for a Litter Abatement Order. This is to give it a chance to clean up the land (although a local authority need not give 5 days notice). Relevant addresses appear in an insert to this report.

The official Code of Practice on litter makes it clear that there will be certain circumstances when it is appropriate to allow a longer period of time for the relevant body to clean the land concerned. Clearly, there are safety and operational considerations which can

affect when the cleaning of some railway land can take place, and the relevant operator may take longer than the maximum time set by the Code. But you can start enforcement action as soon as the five day period of notice has elapsed.

Evidence

Keep a record of dates, times, and the precise location of the problem area. Photographs and witnesses are helpful. The more details you have, the more powerful your case will appear to the magistrates' or the sherrif's court.

Applying to the courts

If five days have lapsed since you gave written notice of your intention to apply for a Litter Abatement Order, and the land has not been cleared, you can apply for an Order. We suggest that in the case of operational land (i.e. not part of a station) it is reasonable to wait a little longer – say two weeks.

The application has to be made to the magistrates' or the sherrif's court which serves the area in which the relevant land is found. You will need to make an appointment with the court. For a list of courts, see the insert to this leaflet.

MODEL LETTERS

You will need to study the litter duty table and clearance standards. These are pictures that we believe are an accurate interpretation of the standards applicable to the railways. Please note that although they show litter on the trackbed, the same 'densities' of litter set the standards which apply to other types of land too.

LETTER A FORMAL NOTICE TO A RAILWAY OPERATOR

Keep copies of your letters. If you use the model wording suggested, you will need to fill in the particular details required in the sections in square brackets. The final letter suggests wording for writing to a local magistrates' or sherrif's court. Details of the specific locality will need to be added.

[Your address and date]

The Chief Executive
[Address of appropriate company]

Dear Sir/Madam

Notice of intention to apply to a magistrates'/sherrif's court for a Litter Abatement Order

I am writing to ask for urgent attention to be given to clearing the litter and refuse at [give as specific a location as possible].

I believe that your company is not complying with its duty under section 89 of the Environmental Protection Act 1990. Accordingly, I am now giving you five days' written notice, as required by section 91(5) of the Act, of my intention to make a complaint to the [name and address of the magistrates'/sherrif's court serving the area including the location of the station or railway land] and to seek a Litter Abatement Order.

It appears to me, having regard to the standards set out in the Code of Practice on Litter and Refuse, that your company is failing in that duty. I believe this area should be classified as zone [refer to numbering in the litter duty table] and is currently of clearance standard [refer to letters in litter duty table and to the clearance standards]. It should be cleared to standard [either A or B – refer to litter duty table and to the clearance standards] within [state time period given in table].

The complaint will relate to your company's failure to keep the land at [give as specific a location as possible] clear of litter and refuse as required by section 89 of the Act.

I hope that your company will now take the necessary action to comply with its legal duties. Failing that, I shall make an application to the court for a summons.

Yours sincerely

[Name]

[Your address and date]

The clerk to the magistrates
[Address of appropriate company]

Dear Sir/Madam

Request for Litter Abatement Order

As required by section 91 (5) of the Environmental Protection Act 1990, on [date] I wrote formally, giving five days' notice, to the Chief Executive of [railway operator] asking for attention to be given to clearing the litter and refuse at [give as specific a location as possible].

Having regard to the standards set out in the Code of Practice on Litter and Refuse, I believe that this area should be classified as zone [refer to numbers in litter duty table] and is currently of clearance standard [refer to letters in litter duty table and to clearance standards]. As such the area should be cleared to standard [either A or B – refer to litter duty table and to clearance standards] within [state time period given in litter duty table].

I have received [no response/an inadequate response] to my letter and [no action/inadequate action] has been taken to clear the litter. The company has not complied with its duty under section 89 of the Environmental Protection Act 1990 to keep the land in question clear of litter and refuse.

Accordingly, I am now asking the magistrates'/sherrif's court to issue a Litter Abatement Order.

Yours sincerely

[Name]

LETTER B

LETTER ASKING THE MAGISTRATES' OR SHERRIF'S COURT FOR A LITTER ABATEMENT ORDER

For further information contact your
local Rail Passenger Committee

■ **RPC Eastern England**

3rd Floor, Zone 4, Stuart House,
City Road, Peterborough PE1 1QF

Tel 01733 312188

Fax 01733 891286

Email info.eastern@railpassengers.org.uk

■ **RPC Midlands**

6th Floor, The McLaren Building,
35 Dale End, Birmingham B4 7LN

Tel 0121 212 2133

Fax 0121 236 6945

Email info.midlands@railpassengers.org.uk

■ **RPC North Eastern England**

Hilary House, 16 St Saviours Place,
York YO1 7PJ

Tel 01904 625615

Fax 01904 643026

Email info.northeastern@railpassengers.org.uk

■ **RPC North Western England**

9th Floor, Rail House, Store Street,
Manchester M1 2RP

Tel 0161 228 6247

Fax 0161 236 1476

Email info.northwestern@railpassengers.org.uk

■ **London Transport Users
Committee**

6 Middle Street
London EC1A 7JA

Tel 020 7505 9000

Fax 020 7505 9003

Email info@ltuc.org.uk

■ **RPC Scotland**

5th Floor, Corunna House,
29 Cadogan Street,
Glasgow G2 7AB

Tel 0141 221 7760

Fax 0141 221 3393

Email info.scotland@railpassengers.org.uk

■ **RPC Southern England**

3rd Floor, Centric House,
390/391 The Strand,
London WC2R 0LT

Tel 020 7240 5308

Fax 020 7240 8923

Email info.southern@railpassengers.org.uk

■ **RPC Wales**

St David's House,
East Wing, Wood Street,
Cardiff CF10 1ES

Tel 029 2022 7247

Fax 029 2022 3992

Email info.wales@railpassengers.org.uk

■ **RPC Western England**

10th Floor, Tower House,
Fairfax Street, Bristol BS1 3BN

Tel 0117 926 5703

Fax 0117 929 4140

Email info.western@railpassengers.org.uk

■ **Rail Passengers Council**

Whittles House,
14 Pentonville Road,
London N1 9HF

Tel 020 7713 2700

Fax 020 7713 2729

Email info@railpassengers.org.uk

Web www.railpassengers.org.uk

Research and text by Vincent Stops, London Transport Users Committee
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