

INFORMATION NOTE

Emergency Cleansing of Mud from the Highway

Fylde Council has a duty under s89 of the EPA 1990 to keep the roads in the borough, so far as is practicable, clean and clear of litter. The frequency with which roads are cleansed is determined by the intensity of use and the nature of the area and informed by a code of practice issued by HM Government. This duty relates to the cleanliness and amenity of roads, and does not cover their safety or keeping them free from obstruction.

In circumstances where something is deposited onto the highway to cause a nuisance or there are reasonable grounds to consider that it constitutes a danger to users of the highway then under s148 of Highways Act 1980 LCC has the power to require the person responsible to remove it (by reference to the Magistrates' Court if necessary), or remove it itself and claim the cost of doing so from the person responsible.

Historically Fylde Council has upon request from LCC exercising its power under s148 above, provided an emergency call out service to LCC and deployed vehicles and operatives to remove the deposit which on most occasions is mud that has been deposited from farm vehicles travelling along country lanes.

As the highway authority, LCC historically bore the cost of this service, by paying Fylde Council's costs of providing it. However over recent years, LCC has ceased to pay Fylde Council for this service. This statutory service of the highway authority has therefore been provided at no charge to LCC, with the full costs of LCC exercising its function under s148 being met by Fylde Council.

Fylde officers are willing to liaise with officers from LCC to agree a way forward to ensure that this necessary service is not funded by Fylde but by LCC as intended by the relevant legislation. A letter has been sent to LCC suggesting such a dialogue and informing them that from 1 October 2016 Fylde Council will no longer be able to provide this service free of charge.

To date no response has been received from LCC.

FURTHER INFORMATION

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