

Mud On The Road

Mud deposited on the road as a result of farming activity is a perennial issue and one that needs to be revisited throughout the farming year to take changing weather conditions and farming activity into account.

The Law - Criminal Offences

Farmers and vehicle operators who deposit mud on the road are potentially liable for a range of offences. There is a range of powers available to the police and the highways departments of local authorities. The primary powers fall under the Highways Act 1980.

Section 148 of the Highways Act 1980 makes it an offence to deposit mud etc. on the highway that would interrupt other users of the highway.

Section 149 of the Highways Act 1980 gives the highways authority the power to clean the road and recover its expenses from the person causing the obstruction.

Section 161 of the Highways Act 1980 states:

“If a person, without lawful authority or excuse, deposits anything whatsoever on the highway in consequence of which a user of the highway is injured or endangered, that person is guilty of an offence.”

In addition, driving a tractor on the public highway with a significant amount of mud attached to it may constitute the offence of ‘dangerous driving’ under the Road Traffic Act 1988. Section 2a of the Road Traffic Act states that the term ‘dangerous’ can include anything which is attached to a vehicle which can include mud.

Farmers also have obligations under the Health & Safety at Work Act 1974 and to look after the health and safety of themselves, their employees and anyone who may be affected by a working operation. Other road users could be affected by the actions of tractor drivers driving vehicles with mud on them. Action could be taken under the Health & Safety at Work Act if mud is deposited on the highway.

Therefore a farmer who deposits mud on the highway runs the risk of committing a criminal offence and may face prosecution and a fine.

Civil Action

Civil action may also be a possibility where the mud contributes to a personal injury, damage to property or any loss or inconvenience. The presence of mud on the highway can constitute a public nuisance and loss or injury can result in a claim for negligence.

If a contractor working for a farmer deposits mud on the highway there is a significant risk that a land owner will be liable under the law of nuisance and or negligence.

If a contractor is hired to perform work for a farmer it is highly advisable that a plan is discussed, agreed and documented with a contractor prior to any works being carried out. It should clearly state who is responsible for the clear up operation and who will take measures (such as signage) in

order to minimise any deposits on the road and the risk of action being taken. If necessary a contractor should give an undertaking to this effect.

What you must do:

- Do everything to prevent mud being deposited on the road. This includes cleaning mud from vehicles, as far as practicable before they are taken onto the road.
- If there is a danger of mud being accidentally deposited on roads use 'Slippery Road' signs with a 'Mud on the Road' sub plate to alert other road users. Check with the local highways authority on their requirements for warning signs at the side of the road.
- Clean the road as necessary during the working day and always at the end of the working day.
- Ensure that labour and equipment is available and is suitable for the soil and weather conditions present.
- Where a contractor is used ensure that prior agreement is reached on who is responsible for mud on road issues (signage, cleaning etc.) and ensure that adequate public liability insurance is in place.

What you should do:

- Be prepared to hire in equipment – check availability in advance.
- Keep to your own farm roads and minor roads whenever possible.
- Keep to low speeds – especially when travelling a short distance – to help retain mud on the vehicle.
- Keep a written record of your decisions on whether or not to deploy signs and/or to clean the road.

Further Information

Highways Act 1980 <http://www.legislation.gov.uk/ukpga/1980/66>

Road Traffic Act 1988 <http://www.legislation.gov.uk/ukpga/1988/52/section/2A>

Highway Code <https://www.gov.uk/the-highway-code>