

## **Observer Statement from George M Niblock FCIWM**

I am a Fellow of the Chartered Institution of Waste Management (retired) having had a 37 year career in public sector waste management. As Director of Environmental Health for Gordon District, I was the professional advisor to the Convention of Scottish Local Authorities, Scottish Government and the Scottish Environment Protection Agency. I am the principal author of the CIWM Scotland, Position Statement on Street Cleansing.

I was the Chairperson of Aberdeenshire Environmental Forum – AEF, a voluntary organisation established in 1989, by elected members of the local Council to act as the environmental conscience and be a critical friend to Aberdeenshire Council.

10 years of complaining to the Council about the lack of cleanliness of the streets, plus numerous meetings with officers and elected members including public questions at Council meetings, failed to resolve the issues.

An application to Scottish Government in terms of Section 89(6A) of the Environmental Protection Act 1990 seeking their intervention, was ineffective.

Believing they had exhausted all other options, AEF decided in 2017 to proceed in terms of section 91 of EPA 90 – *Summary proceedings by persons aggrieved by litter*.

In Scotland, the application for a Litter Abatement Order, is a civil matter within the Sheriff Court system. This process is protracted and complex. It cannot be taken by a group and has to be in the name of an individual. As the Chairperson of the group and having professional experience in the matter, I agreed that the case be taken in my name if funded by AEF.

The entire case took some two years from commencement to finish and involved six separate appearances in court, accompanied by our legal team. Legal costs estimated at £40,000 were funded, mainly pro bono.

The Sheriff declined to issue an Order and awarded costs to the defendant noting that the EPA 90 did not require him to make an Order even if the case was proven.

The defendant, Aberdeenshire Council, proposed to claim £11,526 in 'judicial expenses' rather than 'actual costs' which we believed were significantly lower. AEF had no funds to fight the case further or to appeal and were forced to settle out of court for the remaining balance within the group's funds of £9000 and it ceased operation after 30 years.

The law and court procedures in Scotland are both complex and intimidating. The potential financial implications are without limit, as are the consequences for the individual applicant.

I would contend that while the intent of S91 of EPA90 is laudable, the application is wholly impracticable and accordingly, not fit for purpose.

**George M Niblock** FCIWM

9<sup>th</sup> November 2020