

Appendix 1

Footway Obstructions Policy – A Boards

Purpose

The Council wants the street scene to be both attractive and easy to use for all.

The Council has a duty (under the Traffic Management Act 2004) to keep the highway free of obstruction and protect the safety of highway users, controlling the placement of articles and removing articles that prevent safe and expedient pedestrian movement. The policy supports the Council in meeting its duties as a Highway Authority.

There is a need to set out what is acceptable in order that we can safeguard people with disabilities, including those with visual impairments, and to do this we need to regulate against over-proliferation of obstructions and inappropriate positioning on the footway.

This policy seeks to create a street environment which complements premises based trading but is not unduly cluttered, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.

Scope

These conditions are applicable to the placing of advertising signs on the highway and must be met in all cases. The policy applies to:

The use of A Boards (portable, free standing advertising signs designed to be placed on the ground).

1. All highways within Bath and North East Somerset and will only apply to footways that are classed as highways maintainable at public expense, referred to as "highways" in this policy.
2. These guidelines also apply to pedestrianised areas and precincts.

The policy does not cover:

1. The placing of tables and chairs on the footways. This is regulated by the Council's Public Protection service
2. Street trading and other activities licensed by the Council's Public Protection service and covered by the Council's Street Trading Policy
3. Banners, hoardings, skips and scaffolds etc, which are licensed by application in accordance with The Highways Act 1980
4. Motorcycles and bicycles parked on footways and, or chained to railings/street furniture. These are regulated by The Highways Act 1980
5. The placing of trade waste bins and waste containers on footways. These are regulated by The Highways Act 1980

General Conditions

Only one 'A' Board will be permitted per business (to minimise the obstruction to pedestrians and other footway users)

The 'A' Board must be placed against the boundary of the property and should not obstruct access to statutory undertakers plant and equipment

The signs or displays must be robust and self – weighted. The use of sand bags to stabilise signs will not be permitted. Rotating or swinging signs will not be permitted

The 'A' Board must be removed from the street when the property is closed or street cleansing/street works are being undertaken.

Except in exceptional circumstances (e.g. where the total width of the footway is less than 1.5 metres), a minimum clear width of 1.5 metres of footway is to be left between the edge of the carriageway, or from any item of street furniture or other permanent structure, and the outer edge of any advertising sign or the goods being displayed. This is to ensure that there is no obstruction or danger to any highway users, particularly the visually impaired, disabled people or those with push chairs, etc.

In addition, 'A' Boards may not:

- be chained, tied or fixed to lamp posts, bollards, seats or other items of street furniture
- be fixed into or on the highway. All A Boards must be temporary in nature so they can easily be removed. No excavation will be permitted to install or remove the item
- contain political or offensive statements
- obstruct sight lines of vehicle drivers
- be wider than 660mm or higher than 1.25 metres above ground level

Advertising signs and displays may need to be removed during severe weather, events, to permit maintenance or street works or for other reasonable cause. Any additional requirement requested by the Divisional Director – Environmental Services, the police or emergency services, including immediate removal of any item, must also be complied with.

Insurance

It is essential that Public Liability Insurance cover of a minimum £5million pounds is held by any business which places an A Board on the footway. This is to cover any potential third party claims

General

This policy will be the subject of periodic monitoring and review.

This policy will be applied in a manner which is consistent with the Council's equalities and enforcement policies.

The policy does not exempt any applicant/owner from obtaining any required consent. The applicant / owner of the article (hereinafter called "the originator") will be responsible for obtaining any required consents required by The Town and Country Planning Act.

Appendix 2

1) Legal powers relevant to enforcement of the policy

The **Highways Act 1980 (section132)** enables an officer to remove (without notice) any sign which has, without the consent of the authority, been affixed upon the surface of the highway or upon any tree, structure or works on or in the highway. We would require the owner of the sign to remove it in the first instance.

The **Highways Act 1980 (section149)** provides powers to remove items deposited on the highway where they are a nuisance. In highway terms nuisance is the determination of whether there is an unreasonable interference with the rights of the public to pass and re-pass along and to have access to the highway.

This section enables us by way of notice to require the immediate removal of the sign. Should the terms of the notice not be complied with, a complaint may be made to a Magistrates' Court for a 'removal and disposal order' under this section.

If, however, there are reasonable grounds for considering:

- (a) that anything unlawfully deposited on the highway constitutes a danger (including a danger caused by obstructing the view) to users of the highway; **and**
- (b) that the thing in question ought to be removed without the delay involved in giving notice or obtaining a removal and disposal order from a Magistrates' Court under this section, the item may be removed forthwith.

If a board has to be removed without the service of a notice due to danger posed, we may either:

- (a) recover from the person by whom it was deposited on the highway, or from any person claiming to be entitled to it, any expenses reasonably incurred by the authority in removing it, or
- (b) make a complaint to a Magistrates' Court for a disposal order under this section.

In the event an item is removed under this provision and the Council is challenged it will require evidence countering any claim that the item did not constitute a danger and ought not to have been removed forthwith. This will necessitate evidence from a delegated officer who can provide expert opinion on the highways issues.

The **Highways Act 1980 (section137)** details the penalty for wilful obstruction. This might be used when, for example, 'A' Boards are placed on narrow footpaths etc. It is a prosecutable offence, so there is no recourse to issuing a

notice and no Fixed Penalty Notice option. The maximum fine on conviction is £1000. The court may also order the removal of the item.

2) Enforcement Approach

All enforcement actions will comply with our published enforcement policy. The approach the authority intends to take is set out below

In the event of non-compliance the following options will be considered:

- 1) giving verbal advice on the law and the means to ensure compliance
- 2) consideration of reasonable timescales to achieve compliance
- 3) service of warning letter advising what actions are required by the recipient

Where this does not result in compliance a decision will be taken as to the appropriate action.

In certain instances the A board may be seized and removed. On such occasions, where a contravention justifies such action, some of the factors to be considered in coming to a decision may include:

- whether the A board presents an immediate hazard or danger to the public.
- the past history of the offender
- the confidence of officers that the offender will remedy the non-compliance

Any A Boards removed by the Council will be stored in a secure compound and can be retrieved for a period of up to 12 weeks following the payment of £50, which covers the Council's costs in removing and storing the item.