

Inclusive streets

Updated February 2014



London TravelWatch is the official body set up by Parliament to provide a voice for London's travelling public, including the users of all forms of public transport. We are funded by and accountable to the London Assembly.

Our role is to:

- Speak up for transport users in discussions with policy-makers and the media;
- Consult with the transport industry, its regulators and funders on matters affecting users;
- Investigate complaints users have been unable to resolve with service providers, and;
- Monitor trends in service quality.

Our aim is to press in all that we do for a better travel experience for all those living, working or visiting London and its surrounding region.

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Contents

Foreword	3
Executive Summary	4
1 Introduction	6
2 The problem with pavement obstructions.....	9
3 What the law says	14
4 The approach of London highway authorities to highway obstructions	18
5 Discussion and conclusions	26

Foreword

All sorts of people are inconvenienced by narrowed and obstructed pavements: pedestrians with pushchairs; visitors with suitcases; shoppers carrying awkward loads; ordinary able-bodied people in a hurry who, if they can't get through, may resort to dangerous activity like walking in the road or needlessly impeding others.

And, of course, for older people and mobility and visually impaired users these problems are multiplied, some will even be deterred from making their journey.



Whilst one advertising board tucked close to a building may well provide welcome free advertising for a trader, the uncontrolled proliferation of these obstructions means London's streets are less pleasant, less accessible and sometimes more hazardous than they should be.

In a letter to a London MP, part of which we reproduce in this report, the Mayor of London correctly articulates Transport for London's duties as a highway authority:

'One of Transport for London's (TfL's) duties as highway authority for the TfL Road Network (TLRN) is to keep the streets free from obstruction.'

This report sets out what we have heard from those who find pavement obstruction most problematic and why highways obstructions, particularly traders' advertising boards, need to be cleared off of London's streets.

We want to see all London's local highway authorities follow the exemplar of the Royal Borough of Kingston upon Thames which has been largely successful in keeping its pavements clear by means of a very simple policy of zero tolerance of unlawful highways obstructions. We believe a zero tolerance stance is necessary as anything less will be more difficult to police and lead to endless wrangling between those that obstruct the highway and those charged with keeping it clear. A simple policy will mean all traders operating on a level playing field and competing on that basis. All traders will benefit from a much more pleasant street. And to quote the Mayor again:

'furthermore, obstructions and street clutter can have a significant impact on the appearance of an area and spoil the quality of local life for those living, working and visiting the area.'

Numerous organisations representing the users of London's streets are concerned about this issue and have helped us in the production of this report, including The Royal National Institute of Blind People, Guide Dogs, Age UK London, Transport for All and Living Streets. London TravelWatch will continue to work with others who campaign on this issue and looks forward to inclusive streets, clear of obstruction.

Stephen Locke
Chair

Executive Summary

It is now widely accepted that a wide, level, continuous and clear pavement will encourage more walking and that more walking has societal as well as transport benefits. In London clearing the pavements of obstructions and de-cluttering to improve walkability and access is public policy.

The unlawful obstruction of the pavement is an issue that affects everyone who uses London's streets. All sorts of people are inconvenienced by narrowed and obstructed pavements: pedestrians with pushchairs; visitors with suitcases; shoppers carrying awkward loads; ordinary able-bodied people in a hurry who, if they can't get through, may resort to dangerous activity like walking in the road or needlessly impeding others.

And of course these difficulties are multiplied for older people and mobility and visually impaired users. The organisations representing these users are continuously campaigning for action on this issue. Richard Holmes, the London campaigner for the Royal National Institute of Blind People (RNIB) told us:

'Blind and partially sighted pedestrians have significant problems navigating London's streets with all the legitimate street furniture there is. Additional, unlawful obstacles on the street such as advertising boards, milk trolleys, pallets and boxes just add to our difficulties. We want to see local authorities use all their powers to clear London's pavements of unlawful obstructions.'



Figure 1: For visually impaired pedestrians highways obstructions are not just a nuisance.

There has been much activity by local highway authorities to clear clutter from London's streets. Thousands of bollards and poles and miles of pedestrian guardrail have been removed. However, there remains much to be done to ensure London's pavements are more attractive and are as accessible as they can be for all. Particularly, to clear away the most prolific unlawful obstructions: traders' advertising boards, from London's pavements.

The law is clear. The purpose of the highway is for passing and re-passing, without let or hindrance. It is an offence¹ to obstruct the pavement without 'lawful authority or excuse' and it is the duty² of a local highway authority to keep the pavement clear. Almost all outdoor advertisement, on the public highway (pavement), needs the 'express consent' of the local planning authority and for that the permission of the highway authority³.

Though the law is clear, London's pavements are not. Some highway authorities recognise their duty. Most notably, the Royal Borough of Kingston upon Thames has zero tolerance of advertising boards on their pavements and removes them using the legal powers they have. But too many of London's highway authorities, including TfL, tolerate obstruction of their pavements and as such are not fulfilling their Highways Act 1980 duties.

The weakness of the law, however, is that there is no machinery, in any practicable sense, for the public to enforce the performance of these duties and the use of the powers highway authorities have. Users of London's streets and their representative bodies are left to campaign for more action and to name and shame those authorities that do least. The result of this inaction by highways authorities is a cluttered, unattractive street environment that discourages walking and reduces the accessibility of London's streets, particularly for older people and those with disabilities.

¹ Highways Act 1980 137 (1)

² Highways Act 1980 130 (1)

³ Outdoor advertisements and signs: a guide for advertisers. June 2007, Department for Communities and Local Government

1 Introduction

Maintaining clear and accessible pavements is a mainstream pedestrian issue, not solely one of concern to people with disabilities. All sorts of people are inconvenienced by narrowed and obstructed pavements: pedestrians with pushchairs; visitors with suitcases; shoppers carrying awkward loads; ordinary able-bodied people in a hurry who, if they can't get through, may resort to dangerous activity like walking in the road or needlessly impeding others.



Figure 2: Managing London's streets to ensure there are no highways obstructions is a mainstream pedestrian issue.

Maintaining a clear pavement has particular importance to older people and visually and mobility impaired users. Their representative bodies: Royal National Institute of Blind People (RNIB), Guide Dogs, Age UK London and Transport for All regularly campaign on this issue and call for action against highways obstructions.

London TravelWatch has been a consistent proponent of a clear and uncluttered pedestrian environment in order to make walking easier and more pleasurable for all, but particularly to ensure London's streets are as accessible as they can be. This is reflected in our recent '*10 policies to keep London moving*' document which called for the removal of clutter, including traders' advertising boards from London's streets.

London TravelWatch has previously published research⁴ looking at the interchange requirements of passengers within stations, between stations, and with nearby bus services at on-street stops. One of the issues that concerned members was the amount of clutter on London's pavements and in particular the items deposited by

⁴ Walking and Interchange in London: <http://www.londontravelwatch.org.uk/document/14197>

traders, often advertising boards, but also pallets, milk trolleys and large commercial bins.

Last year, London TravelWatch undertook research,⁵ in partnership with *Transport for All*,⁶ looking at the accessibility of the Olympic and Paralympic Games venue stations. The experience of travelling with visually and mobility impaired Londoners and follow-up discussions with the RNIB, has reinforced our view that the issue of pavement obstructions is an important one for all pedestrians and particularly for older people and mobility and visually impaired Londoners.

The photograph below illustrates the issue. For sighted able-bodied pedestrians these obstructions are problematic, for older people and visually and mobility impaired pedestrians they are a hazard and sometimes dangerous. The photo below is of just three of over 100 advertising boards placed daily on TfL's A1, Upper Street in Islington. TfL has a legal duty to remove these obstructions but Islington could also remove them if they chose to. We asked that action be taken on Upper Street and were promised it would be. Many months later the street is still littered with boards.

This report looks at these issues from a pedestrian perspective. We have investigated what the law says, what best practice is and how local authorities approach this issue and undertake the duty placed on them. Finally we conclude with what needs to be done to clear obstructions on London's pavements.



Figure 3: Upper Street, Islington. A Transport for London controlled street within the London Borough of Islington.

⁵ Will everyone get to the Games:

http://www.londontravelwatch.org.uk/news/2012/05/will_everyone_get_to_the_games

⁶ Transport for All is a London-wide third sector organisation representing the views of older and disabled transport users.

In this report there is a focus on advertising boards, because they are so problematic in terms of the sheer numbers of them on some of London's streets. But, of course they are not the only obstruction that needs better management by London's highway authorities. Just because it benefits a business to deposit a milk trolley, cycle plant-lock, dead potted olive tree or ornamental wheel-barrow on the pavement doesn't mean they should be tolerated by the highway authority. In short the law requires a highway authority to:

'assert and protect the rights of the public to the use and enjoyment of any highway'

and we want them to do just that.



Figure 4 Whilst we have focussed in this report on advertising boards, other unlicensed obstructions such as wheelbarrows also have no place on the public highway.

2 The problem with pavement obstructions

In 2004 Jan Gehl, the Danish urbanist was commissioned by TfL and the Central London Partnership to report on what might be done to improve the walkability of London's streets. In his report: *Towards a Fine City for People*⁷ Gehl described London's streets as an 'obstacle course' and went on to say what pedestrians want:

'..... no obstacles, wide footways, no changes in level.'

It is now widely accepted that uncluttered, wide and level streets are the most walkable, accessible streets. This theme was taken up by the Mayor in 2009 when he launched the *Better Streets* initiative which included design guidance from TfL's Urban Design London team.⁸ The guidance recommends a staged approach to improvement with the first stage being to 'tidy up'. The two images and caption below are taken from the guidance and demonstrate the approach.

Existing



Tidy up



Figure 5: 'The first step is to remove items that are not fixed and can be simply lifted from the streetscape. The illegal A-boards are gone and the street is cleared of any rubbish. Even after this initial stage is possible to notice the marked improvement in space available to pedestrians.'

However, this guidance is not followed by many local highway authorities. TfL controlled streets are as cluttered as many others in London, sometimes more so.

In London there are 41,080 registered blind or partially sighted residents⁹. There are more than this number that are not registered. 11.2% of adult Londoners have mobility difficulties, 6.8% have a mobility impairment. There are many organisations representing visually and mobility impaired users who are actively campaigning on this issue because of its importance to their members. Below are quotations supplied

⁷ Towards a fine city for people: http://www.gehlarchitects.dk/files/pdf/London_small.pdf, Gehl Architects

⁸ Urban Design London: Five Stages of Improvement <http://urbandesign.tfl.gov.uk/Design-Guidance/Better-Streets/BetterStreets/FiveStages.aspx>

⁹ RNIB sight loss data tool

to us or taken from reports from some of the organisations representing older people, mobility and visually impaired users.

Guide Dogs

The Guide Dogs organisation has undertaken a survey of UK high streets and described what they found¹⁰ as a '**cluttered nightmare**' for the users they represent. Camden was held to be the worst town in the UK for clutter. Guide Dogs say in their 2012 survey report:

'Having a clear pathway is crucial for many blind and partially sighted pedestrians who wish to navigate along their high street independently. Street clutter such as A-Boards, bicycle racks and static council bins can cause obstructions which can hamper a person's progress along a high street.'

Falling over items of street clutter is not only painful but can be a shock to a blind or partially sighted person and could affect that person's confidence to use these streets and shopping areas. This is particularly concerning as research has already shown that thousands of blind and partially sighted people never leave home alone. Street clutter can also prevent people with mobility impairments such as wheelchair users and other vulnerable pedestrians from using the pavements with confidence.'

Age UK London

Age UK London, in their pre-2012 mayoral election, *Older People's Manifesto*,¹¹ called on the future Mayor to tackle pavement clutter. They told us:

'In our recent London "Older People's Manifesto 2012-2016" we highlighted the problem of cluttered streets, particularly for those with visual or mobility problems. We want to see local authorities use all their powers to tackle the issue of advertising boards and other unlicensed obstructions on London's pavements.'

Age UK East London

Age UK East London, working with local group Disability Back-Up has conducted research amongst older people and disabled residents locally¹² and found:

'78.2% agreed or strongly agreed with the statement: "Advertising 'A' board signs and shop displays are a hazard and a problem for me.'

¹⁰ Guide Dogs campaign: Survey reveals UK's streets are a cluttered nightmare; Camden High Street, London, the worst offender, October 2012. <http://www.guidedogs.org.uk/news/2012/survey-reveals-uks-streets-are-a-cluttered-nightmare/>

¹¹ Age UK London: Older People's Manifesto: <http://www.ageuk.org.uk/brandpartnerglobal/londonvpp/documents/idbb240%20age%20uk%20london%20older%20people%E2%80%99s%20manifesto%202012%E2%80%932016%20web%20version.pdf>

¹² Hackney Disability Back-up: Getting there. <http://www.disabilitybackup.org.uk/lobbying/Lobbying-Getting-There-Transport-Report-2012-10-222.pdf>

A typical response was:

‘Shop keepers put stuff out on the pavement blocking my way;’

The report concludes:

‘We would prefer to see a zero tolerance approach to unlicensed obstacles on the footway’.

The Royal National Institute of Blind People

The RNIB are actively campaigning on this issue across the UK. The RNIB told us:

‘A-boards are not only a nuisance to blind and partially sighted people but prevent many from freely walking along the pavement without fear of tripping over one. For people with sight loss, the legs stick out and can snag the white cane. They cause people to trip, graze wrists and hands and turn what should be a straight forward walk to the shops into a very unpleasant and often painful experience.’

A recent report¹³ from the RNIB, *Quick wins and missed opportunities* highlighted this:

‘Blind and partially sighted people told us that many of their local areas were cluttered places that for sighted people might not cause a problem but for them were very hazardous.

In some cases this had led to blind and partially sighted people choosing not to go out as they felt scared or intimidated. In other cases, research participants reported falling over and injuring themselves thereby requiring medical treatment.’

Hugh – a North East London resident and white cane user.

“The first thing I know about A-boards is when my white cane catches on or under them, or when a protruding prop trips me up, or when the frame gouges my forearm or hip. Next I have to untangle my cane and take time to get it back into position so my fellow pedestrians have a fair chance of seeing my cane, which is hidden by the board. People walking along behind me can't see my cane and assume I have stopped and are now pushing past me. On-coming pedestrians regard me as waiting for them to pass, and a bottleneck builds up. This doesn't just happen sometimes, it happens most of the time. When one shop has an A-board, they all want them. A-boards use up space that people like me rely on for walking, there is no way round that.”

¹³ RNIB, Shop signs and A boards campaign:

<http://www.rnib.org.uk/getinvolved/campaign/gettingaround/Pages/aboards.aspx> Quick wins report: http://www.rnib.org.uk/getinvolved/campaign/healthsocialcare/Documents/Quickwins_report.pdf

Transport for All

Transport for All is a pan London organisation that advocates and work for better transport on behalf of older and disabled Londoners. They told us:

‘The proliferation of A-boards has turned our high streets into obstacle courses. Disabled and older people should not have to dodge and weave if we want to walk to the local shops. The clutter of A-boards is especially troublesome for anyone who uses a mobility aid like a wheelchair, shopper trolley, mobility scooter or rollator; as well as blind and visually impaired people. Local councils need to stand up for clear pavements and ensure that all pedestrians can walk or wheel unimpeded.’

Thomas Pocklington Trust

Thomas Pocklington Trust offers people who are blind or have sight loss the support they require to lead an independent life.

‘We welcome the attention this event¹⁴ has drawn to such an important issue. As a charity working with blind and visually-impaired people, we see first-hand the difficulties pavement A-boards can have on those living with sight loss. Many people living with visual impairments are already worried about the obstructions they face when leaving the safety of their homes, including overhanging vegetation or bicycles

Sian – an Ealing resident and wheelchair user.

“perhaps it's unfortunate that the A boards in Ealing seem to be on pavements with cambers that I find difficult. In my old chair I used to find cambers very very challenging as they made me feel I was quite likely to go sliding off the pavement and into the road. The A-boards, being at right angles with the shop window, force you out nearer the curb, which is exactly where you don't want to be. Consequently these boards have come close to cutting off my route from home to the shopping centre. On one occasion I challenged the manager of *As Nature Intended* about this, but he just said he had to publicise the shop and anyway he'd got permission from the council. Councils just shouldn't give permission for these boards unless the pavement is very wide indeed. I don't have the same problem with cambers using my new chair, but it does give me sporadic difficulty with steering. Very recently, I happened to have a spell of this trouble outside *As Nature Intended* and actually had no choice but to knock the A-board over. With all the more inevitable barriers that the environment throws up, it does seem ridiculous that we have to deal with the completely unnecessary problem of immobile publicity boards taking up half the pavement width.”

¹⁴ The event referred to was one organised between London TravelWatch, Transport for London and several organisations representing users of London's streets.

chained to railings. Unexpected obstacles like A-boards only compound these fears.

The issues the event raised regarding the size of A-boards, which in some cases were 6 foot high (and over 100 in one street), are not just a major problem for blind and partially sighted people, but also for the elderly, wheelchair users and parents with buggies, all of whom find it more difficult to navigate such cluttered streets.

We understand local businesses use pavement A-boards to draw in customers, and hope this report encourages a more thoughtful approach to the way they are used.'

And of course this is an issue not solely for disabled Londoners.

Living Streets

Living Streets is the national charity that stands up for pedestrians. They told us:

'Clear, unobstructed pavements are important for all pedestrians not just disabled users. People with buggies and shopping trolleys or who are simply in a rush, don't want to be inconvenienced by randomly placed pavement obstructions. Living Streets want highway authorities to use all their available powers to keep footways free of all unlawful obstructions. This is a key ingredient to creating safe, attractive and vibrant streets.'

3 What the law says

The following is a summary of the pertinent provisions of the Highways Act 1980. This is the law which governs obstruction of the public highway. The Town and Country Planning (Control of Advertisements) regulations 2007 also seeks to manage outdoor advertisements.

The law is clear.

- i) the public highway exists for the purpose of passing and re-passing¹⁵ without let or hindrance.
- ii) if a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway it is an offence¹⁶.
- iii) if, without lawful authority or excuse a person deposits any thing whatsoever on a highway to the interruption of any user of the highway he is guilty of an offence and liable to a fine¹⁷
- iv) if any thing is so deposited on a highway as to constitute a nuisance, the highway authority for the highway may by notice require the person who deposited it there to remove it forthwith.¹⁸
- v) No advertisement may be displayed without consent granted by the local planning authority and permission from the highway authority [Note there are some exemptions to this, but none applies to commercial advertising on the public highway]¹⁹.
- vi) The 1995 Disability Discrimination Act, which amended the Highways Act 1980, requires highways authorities to have regard to the needs of disabled persons and to promote equality.²⁰

The role of local highway authority is also clear.

- vii) It is the duty of the highway authority²¹ to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.

This duty can be extended to cover areas of highway for which a council are not the highway authority and so a borough may take action against highways obstructions on a TfL controlled road.

¹⁵ Established common law

¹⁶ Highways Act 1980, section 137

¹⁷ Highways Act 1980, section 148

¹⁸ Highways Act 1980, section 149

¹⁹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

²⁰ Highways Act 1980, Section 175

²¹ Highways Act 1980, section 130

- viii) It is the duty²² of a council who are a highway authority to prevent, as far as possible, the obstruction of the highways for which they are the highway authority, and any highway for which they are not the highway authority, if, in their opinion, the obstruction of that highway would be prejudicial to the interests of their area.

There are, of course, times when the highway can be used for purposes other than the primary purpose of passing and re-passing. The law does allow for temporary or licensable obstruction of the pavement. For example, scaffolding can be licensed when works are being done to a building fronting onto the highway, skips can similarly be licensed. A local authority may decide that there is public benefit from allowing (licensing) tables and chairs. Shop front trading is also licensable. The law allows reasonable activity to happen on the highway. Loading, which temporarily obstructs the highway can happen, a window cleaner may clean windows, and a trader can momentarily stop to show his wares. However, to quote the policy of Kingston upon Thames Borough Council:

The placing of street advertising boards ('A' boards) on the public highway is unlawful.²³

There is no lawful excuse for causing obstruction with an advertising board. There are no powers available to councils to license advertising boards on the highway, though some authorities are being creative and operating 'licensing' regimes. Some mistakenly believe that section 115E(1) of the Highways Act 1980 allows them to do this. Section 115E(1) **does** allow a local authority to **license structures to enhance the amenity** of the highway or **provide a service for the benefit of the public** or a section of the public. It is then possible to advertise on that licensed structure. However, it **does not enable the licensing of structures simply to provide advertising space.**

TfL have stated that advertising boards are not licensable (See Appendix 1).

Steven Sauvain QC in his *Highway Law (4th Ed)* at paragraph 12-111 confirms this:

'...It seems unlikely that the powers of this part of the Act may be used simply to place an advertising board in the highway outside his shop,.....'

The Highways Act 1980 does not state explicitly that advertising boards are never allowed on the highway under any circumstance. Each case will always be decided on its own merit and there is a principle of 'de minimis'²⁴ that can be applied. The case of a newsagent's hanging rack is suggested as an example of this in one legal case. Another case cites a magistrates' court allowing boards to be used to obstruct an area of carriageway outside a pub to enable deliveries to a cellar. A further case, where a board was allowed, is cited where the pavement was only reduced by a 'matter of inches'. Counsel has said at a conference we attended that case law means that 'de minimis really does mean de minimis'.

²² Highways Act 1980, section

²³ The Royal Borough of Kingston upon Thames, Policy Statement on A-boards

²⁴ For further explanation of de minimis see Appendix 4

The law provides powers for highways authorities to deal with advertising boards:

- i) the Highways Act 1980 gives powers to councils to issue enforcement notices and ultimately prosecute a frontager through the magistrates' court. This process can be frustrating as a determined violator can play cat and mouse with the authority. The cumbersome nature of this legislation, requiring, as it does, referral to a magistrates court, led to TfL and London Councils promoting legislation in 2003 giving them additional powers.
- ii) the London Local Authorities and Transport for London Act 2003 allows for the issuing of Fixed Penalty Notices (a civil fine) and allows for the removal of things deposited on the highway without resort to a magistrates court:²⁵ if the highway authority are satisfied that—
 - (a) things are deposited unlawfully and persistently on any part of the highway to which this section applies; and
 - (b) the depositing of the things is caused by persons having control of or an interest in a business carried on in premises in the vicinity of the part of the highway concerned,

the highway authority may serve a notice on any person having control of or an interest in the relevant business.
- iii) the Highways Act 1980 enables the immediate removal of obstructions which present an immediate danger.
- [iv) the Town and Country Planning Act 1990, Section 224(3), together with the London Local Authorities Act 2004, Section 15(1), Schedule 2, allows local authorities to impose a Fixed Penalty Notice for displaying an advert on the public highway without express consent.]

However, though all local authorities have duties placed on them and have the powers to clear obstructions there is no mechanism available to the public to force them to do so in any practicable way. The placing of advertising on the public highway is a widespread unlawful activity and the least line of resistance for highway authorities is to allow illegal obstruction knowing that they are unlikely to be challenged. Some cite the de minimis principle to cover them doing as they please.

The definition of public highway is said to be unclear by those who seek to blur these issues. It is suggested that the areas in front of shops, often paved in a different material to that generally used, is private land and therefore not public highway. This is not necessarily the case. Land ownership is not relevant when considering if land is public highway.²⁶ Private land can be public highway and generally the local highway authority will know which land is, or is not, public highway. If the public have routinely had access to the area in front of a shop then the area is public highway. If a land owner can demonstrate that the public have not had access to an area of land for 20 years they can claim the area is not public highway, but this should not be

²⁵ London Local Authorities and Transport for London Act 2003

²⁶ Advice to members of the Royal Borough of Kensington and Chelsea

used as an excuse for the highway authority that have a duty to assert and protect the rights of the public.

[Where an advertising board is placed on the area of pavement in front of a business premises which forms part of the highway it will almost certainly need express consent. These boards can be enforced against by the issuing of a Fixed Penalty Notice under the Town and Country Planning Act 1990, Section 224(3) together with the London Local Authorities Act 2004, Sections 15(1), Schedule 2..]

4 The approach of London highway authorities to highway obstructions

In 2001, TfL wrote to London TravelWatch (Appendix 1) and told us of a new initiative:

‘to return our pavements to pedestrians by clearing away unlicensed obstructions and advertising boards from the Transport for London Road Network (TLRN).’

In 2003 London local authorities and TfL gained powers, following their promotion of a bill through Parliament²⁷ to enable them to more efficiently enforce against unlawful highway obstructions without having to resort to a magistrates’ court.

In 2004 TfL and the Central London Partnership (a partnership between central London’s local authorities and businesses) commissioned the Danish urbanist Jan Gehl to advise them how to improve London’s streets and public realm to benefit both pedestrians and business. In this study²⁸ Gehl described London’s streets as an ‘obstacle course’. Amongst others, the Gehl report provided the impetus for the removal of pedestrian guard railing, the removal of many parking poles, bollards and other clutter.

In 2009 the Mayor initiated the *Better Streets* initiative with accompanying guidance²⁹ that encouraged the removal of ‘illegal A-boards’. The London Plan followed and TfL responded to it³⁰ with a report stating how it intended to improve access for all. The report noted that ‘Disabled Londoners are more likely than all Londoners to express dissatisfaction with walking and driving environments’. This TfL report stated:

‘Better Streets initiatives are not a “once and for all” solution. They require careful enforcement and maintenance management to ensure long-term benefits. For example, regulations and guidelines relating to parking, location of advertising A-boards, cycling on pavements and bus stop clear zones must all be enforced.’

However, it is now over a decade since TfL first determined to clear away unlicensed obstructions from the pavement. Too many of London’s pavements remain cluttered. They remain an obstacle course for all Londoners and a hazard to older people and mobility and visually impaired Londoners.

As part of the research undertaken to produce this report we contacted all 33 local highway authorities in London and TfL. All have responded. From these responses it is clear that there are almost as many approaches to this issue as there are highway authorities. Very few fulfil their Highways Act duties, some will have selected streets

²⁷ The London Local Authorities and Transport for London Act 2003

²⁸ Towards a fine city for people, Jan Gehl Architects

²⁹ Better Streets, Mayor of London. Urban Design London: Five Stages of Improvement

³⁰ TfL, Taking forward the Mayor’s Transport Strategy Accessibility Implementation Plan

where they apply zero tolerance of obstructions, most tolerate obstruction of their pavements and even licence obstructions or otherwise seek to legitimise them. Most claim to undertake some enforcement. There is a further group that simply advise frontagers and undertake no enforcement. A summary is provided as Appendix 2 which was correct as of the beginning of 2013.

We have engaged with local authorities through casework complaints and discussion. One gets the sense that many of London's local authorities see their role not as asserting the rights of the public, but as defending the unlawful actions of traders obstructing the pavement. It seems some highways authorities regard advertising on the pavement as legitimate as long as there is a way through for able bodied, sighted pedestrians, sometimes allowing only 1.2 metres of clear pavement.

Havering told us their approach is 'one of advice rather than enforcement' with the results seen below.



Figure 6: Romford. Uninviting and inaccessible.

In contrast it is pleasing that the Royal Borough of Kingston upon Thames, correctly interprets its duties regarding obstructions on the pavement. We have visited Kingston and it is apparent that the Council successfully applies its policy. The level of compliance is high. The streets of Kingston look well managed and will be inviting and accessible to all.



Figure 7: Kingston. Inviting and accessible.

The Royal Borough of Kingston upon Thames has adopted a 'zero tolerance' approach in dealing with A-boards on the public highway. Its public interest considerations are stated as:

- The placing of street advertising boards ('A' boards) on the public highway is unlawful;
- They cause street clutter / nuisance;
- They are a health and safety hazard to disabled and partially sighted people;
- The voluntary code of practice had not been successful;
- They compromise the Council's statutory duties under the Highways Act and Disability Discrimination Act.

Kingston upon Thames Council tells us that it enforces the policy utilising the powers it has to remove boards provided in the London Local Authorities and Transport for London Act 2003.

It has a very robust statement on its website which is reproduced in Appendix 6.

There are other boroughs that appear to be reasonably pro-active. For example, the City of Westminster has a policy:

‘Where they [‘A’ boards] are included in the equipment for a tables and chairs extension of that business onto the highway, they must remain within the permitted area. **In all other cases ‘A’ boards or similar advertisements on the public footway will not be tolerated.**’

However, despite a reasonable level of enforcement activity, Westminster appears not to be as successful as the Royal Borough of Kingston upon Thames in gaining compliance. Westminster utilises removal notices to enforce, but only after a series of warnings.

Greenwich does not permit A-boards on the public highway. Enforcement is focused on its town centres. In Greenwich, from observation, it appears that they are successful in this.

Barnet has zero tolerance of A-boards and other highway obstructions. From observation there is a reasonable level of compliance.

Hackney has recently agreed a no A-board policy on its public highway. From observation there is progress towards gaining compliance. Hackney has produced an excellent A-board guidance leaflet which is reproduced in appendix 6.

Newham tell us they are pro-active in dealing with highway obstructions.

A handful of highway authorities, for example Kensington and Chelsea, operate a zero tolerance policy on a selection of their streets. Bromley is successful in keeping its town centre clear of unlawful obstructions. The rationale for selection relates to footfall and the profile of the street.

TfL have developed guidance (described above), encouraging the removal of ‘illegal A-boards’. TfL has previously told London TravelWatch (see Appendix 1) that that it would:

‘Return our pavements to pedestrians by clearing away unlicensed obstructions and advertising boards from the Transport for London road network.’

They further note:

‘Advertising or ‘A’ boards cannot be licensed.’

The Mayor recently supported TfL's robust enforcement against highway obstructions in Streatham in a letter to Chuka Umunna MP. A paragraph of that letter is reproduced below:

One of Transport for London's (TfL's) duties as highway authority for the TfL Road Network (TLRN) is to keep the streets free from obstructions. This is important because, as you acknowledge in your letter, obstructions on the road or the pavement can cause a danger to the public. This is particularly so for anyone with a visual impairment. Furthermore, obstructions and street clutter can have a significant impact on the appearance of an area and spoil the quality of local life for those living, working and visiting the area. For these reasons, TfL has been reducing street clutter and unnecessary obstructions on the TLRN as part of the Better Streets initiative. This includes the removal of features such as unnecessary pedestrian guardrails, bollards, advertising signs and A boards.

In practice TfL have a selection of streets (see Appendix 3) that they do or intend to keep clear of obstructions on a zero tolerance basis. They have recently extended the list of such streets to include several more, but have not yet gained compliance.

On all other TfL streets there is too little enforcement activity. TfL have devised rules about the location of A-boards, the size and number per frontage etc, though these are often not complied with and the level of enforcement activity means even the worst examples of very large boards deposited in the middle of the pavement do not get enforced against.



Figure 8: This board is allowed to remain deposited on the A1, Holloway Road

Following engagement on this issue, TfL tell us they have increased their enforcement activity on some streets and are trialling the use of Fixed Penalty Notices. This is welcome, however, TfL is sometimes slow to respond to complaints and often just have the obstruction moved elsewhere (only for it to return at a later

date) rather than have it removed. TfL tell us that the process of enforcement is 'resource hungry' and that they take a pragmatic approach.

In January 2014 TfL started to increase its pro-active enforcement on its so-called zero tolerance streets. Two letters which it is delivering to shops are included in the best practice appendix. In its February update on Transport: Your Accessible Transport Network it announced this increased activity:

'Streets

We will continue our work to de-clutter pavements and make the pedestrian environment more accessible. As well as removing unnecessary signs and bollards, we are stepping-up our enforcement against pavement obstructions, including A-boards outside shops. We have designated many of the busiest streets on our road network as zero tolerance areas, where we robustly enforce and remove boards. We are now trialling the use of Fixed Penalty Notices against offenders.'

Many of the other boroughs have policies that allow unlawful obstruction of the public highway. Like TfL they apply various rules regarding the placement of A-boards: location, residual pavement width, size of board, number of boards per frontage etc. Some allow as little as 1.2 metres residual pavement, but most suggest a width of 1.8 to 2 metres is acceptable.

The legal advice the City of London has given its street cleansing officers seems typical of the position of many authorities. The City has misinterpreted case law, that recognises the de minimis principle, to mean they can do as they please, whereas Counsel's advice to us is 'de minimis really does mean de minimis'. The City's advice means that even in the City of London, where walk trips are very high³¹ and so much has been done to improve the public realm, the highway authority cleansing team deem it acceptable to allow obstructions to reduce the width of the pavement to only 1.8m. And of course that is flouted.



Figure 9: The City of London allow a reduction in pavement width to 1.8m. Here it is less.

³¹ Over 350,000 commuters come into the City each day according to the City of London website.

Some highway authorities, without any legal basis, allow the obstruction of parts of the public highway on the grounds that it is in private ownership. Others, again without any legal basis, 'license' illegal obstruction of the public highway by applying legislation to A-boards as if they were conferring some public benefit akin to tables and chairs in front of cafes, which they clearly do not. One borough is seeking to regularise obstructions using planning regulations designed to ban the display of portable advertising within a designated area.

On many of London's streets the actual experience is generally worse than the rules, protocols or 'licenses' developed by the highway authority. It is apparent that there is much less pro-active enforcement than there should be. Boards are located against the building, next to the kerb or in the middle of the pavement. They can be larger than the authority says they permit, they narrow the pavement down to less than allowed and are more numerous than the 'rules' say they should be.

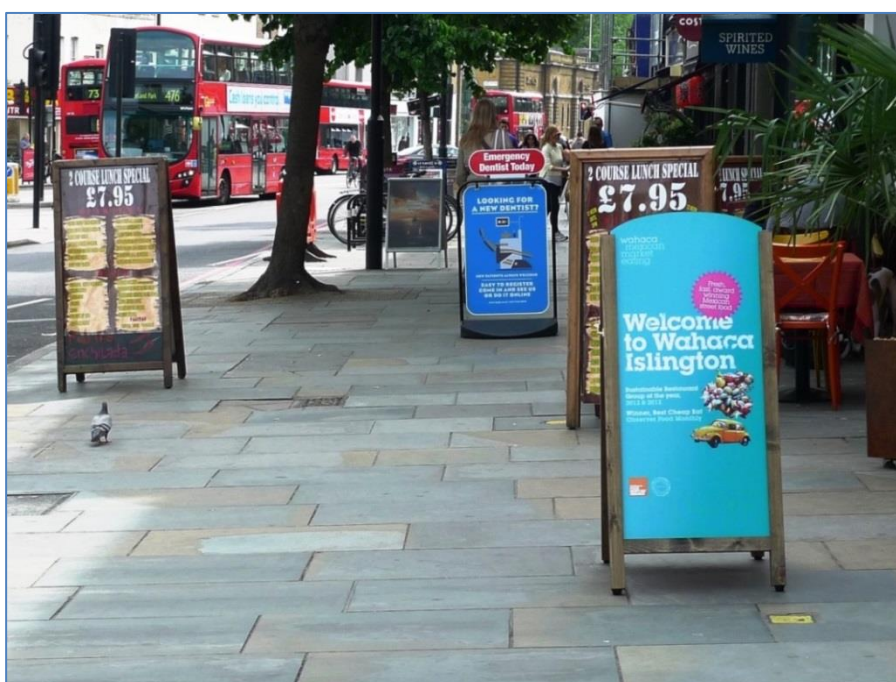


Figure 10: The A1, Upper Street. The policy allows a single A-board placed adjacent to the property wall of a much smaller size than any of these.

The 'rules' are broken because there is (as the RNIB London campaigner describes it) an A-boards arms race where one trader seeks an advantage over another by breaking the rules and enforcement by council officers becomes nearly impossible. It should be noted that Kingston upon Thames adopted its strict stance because 'the voluntary code had not been successful'.

The result is a street scene more unpleasant and less accessible than it should be. Unlawful obstruction of the pavement occurs without sanction.



Figure 11: A too frequent site on London's streets, Holloway Road

5 Discussion and conclusions

A wide, level, clear pavement is more pleasant to walk along than a cluttered one. This benefits all pedestrians, but particularly older people and mobility and visually impaired Londoners. London TravelWatch has been a consistent advocate of clear and accessible pavements for many years. Public policy puts pedestrians at the top of the transport hierarchy and seeks to encourage more walking by clearing away obstructions. All of the major campaigning charities representing older people and mobility and visually impaired travellers are actively campaigning on this issue.

There has been some progress in de-cluttering London's pavements. Local highway authorities have actively removed some of their redundant street furniture, changed policies on pedestrian guard railing, combined lamp columns and traffic signal heads etc. They now consider more carefully the location of essential street furniture that they introduce onto the pavement.

Obstruction of the public highway is allowed in some circumstances. Building works have to happen and therefore scaffolding is licensed, frontagers must receive goods and there is public benefit derived from the siting of bus shelters etc. Tables and chairs can be licensed outside cafes and restaurants. Street trading is licensable. However, the placing of advertising boards on the public highway is almost always unlawful. Local highway authorities have a duty and the necessary powers, to keep their pavements clear of obstructions.

There are some London boroughs that recognise their duty to keep their pavements clear. The Royal Borough of Kingston upon Thames is exemplary in this. It does not tolerate unlawful obstructions and it is generally achieves compliance.

However, many local authorities, including TfL, have devised their own rules that allow the obstruction of London's pavements. These highway authorities are not fulfilling their Highways Act duties. Unfortunately the users of London's pavements cannot, in any practicable sense (apart from using the High Court), enforce the performance of these duties. Campaigners for vulnerable users continuously campaign on this issue, but are largely ignored.

London TravelWatch wants to see all London's local highway authorities follow the exemplar of the Royal Borough of Kingston upon Thames which has been largely successful in keeping its pavements clear by means of a very simple policy of zero tolerance to highways obstructions. We believe a zero tolerance stance is necessary as any other will be more difficult to police and lead to endless wrangling between those that obstruct the highway and those charged with keeping it clear. A simple policy will mean all traders operating on a level playing field and competing on that basis. All traders will benefit from a much more pleasant street.

Appendix 1: Letter received from Transport for London, 31 October 2001

Our ref: SM/NC/T3.70.85376.pb

31 October 2001



Direct line : 020 7941 4070
General fax: 020 7941 4465
Email : derekturner@streetmanagement.org.uk

Rufus Barnes
Director LTUC
Clements House
14 – 18 Gresham Street
London
EC2V 7PR

Dear Rufus

UNLICENSED OBSTRUCTIONS ON PAVEMENTS

We are about to start a new initiative to return our pavements to pedestrians by clearing away unlicensed obstructions and advertising boards from the Transport for London Road Network (TLRN).

This is in line with the Mayor's Transport Strategy, which included as a priority, the removal of inappropriate and unauthorised obstructions on pavements. As I am sure you are aware, these items often cause inconvenience to pedestrians, and can be a safety hazard for people with poor eyesight, those who are frail, people with disabilities, and parents with push chairs. They also make the street look cluttered and untidy.

In certain cases, where the 'obstruction' adds to the street scene and there is adequate room for pedestrians, it can be possible to issue a licence to retain some items. We are working with local councils and the police to introduce a consistent process for dealing with licence applications. If a licence is not granted, owners will not be permitted to place unauthorised obstructions on the pavement. Advertising, or 'A' boards, cannot be licensed. As first step in this process we have carried out a survey to identify where items are already placed on the TLRN and are about to contact all businesses that have placed unlicensed items or 'A' boards on the pavement, to request that they be removed.

We will continue to carry out further inspections to ensure compliance with any licences that have been issued and that our pavements are kept free of illegal obstructions. Our campaign will be backed up by local media coverage and enforcement action in conjunction with local authorities.

If you require further information, please do not hesitate to write to me at the address below or telephone me on 020 7941 4070.

Yours sincerely

DEREK TURNER
MANAGING DIRECTOR

Appendix 2: How London's local highway authorities undertake their duty to keep London's pavements clear of obstruction (correct at the beginning of 2013)

London TravelWatch asked local transport authorities and TfL the following questions:

- i) What is the approach of your authority to enforcement of obstructions, particularly A-boards on the footway?
- ii) Is the policy formally adopted? When was it adopted? Was the policy developed taking account of the authority's equalities duties?
- iii) If there is one can you please send us a copy of the policy and /or procedures?
- iv) How many complaints did the authority receive regarding footway obstructions in the last year (calendar, financial or previous 12 months)?
- v) How many enforcement notices, Fixed Penalty Notices and prosecutions were there issued over the same time period?
- vi) Does the authority undertake pro-active enforcement by patrolling, say, or does it just respond to complaints?
- vii) How many officers (FTE) are committed to this activity?
- viii) Please tell us any other issues you think are relevant to this issue.

The table below shows the date each borough responded to our questions and the details of their response.

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
London Borough of Barking and Dagenham (17.01.13)	Officers offer informal advice.	No	N/A	Not available.	None	Both patrolling and reactive response.	4 highway officers.	
London Borough of Barnet (10.12.12)	Zero tolerance of A-Boards and most other obstructions.	No. Barnet uses 17(1) of the London Local Authorities Act 2003.	N/A	63	5 warning notices, 38 A-board removal notices.	Both patrolling and reactive response. Part of duties of enforcement officers.	6 priority intervention officers.	
London Borough of Bexley (11.12.12)	Licenses A-Boards, requires 1.3 metres unobstructed footway.	Adopted policy March 2011.	We have a copy.	3 complaints this year.	No enforcement was undertaken.	Frequent inspections and responds to complaints.	Half a post.	
London Borough of Brent (15.01.13)	Licenses A-Boards.	No	N/A	53 highway obstruction complaints.	None	Both patrols and responds to complaints.	10 officers, but this activity is a very small part of their function.	
London Borough of Bromley (22.11.12)	Zero tolerance in pedestrianised area of town centre. Elsewhere they allow boards abutting building if there is a 2 metre space for pedestrians maintained.	No formal policy.	N/A	190 reports of footway obstruction.	145 letters sent. No FPNs, 6 cases prepared for prosecution.	Reactive.	3 officers. This is 20% of their work.	The Council is considering licensing.
London Borough of Camden (05.12.12)	Says it takes seriously, doesn't license, but allows deemed consent on forecourt? Will take action against oversized boards or those in middle of footway. [Note: this is a mistaken understanding of the advertising regulations.]	No formal policy.	N/A	No records as doesn't break down statistics.	50 enforcement notices, no fixed penalties, no prosecutions.	Both patrols and responds to complaints.	Part of duties of 16 dedicated officers.	Mentions recession as reason for pragmatic approach. Removes dangerous boards rather than prosecuting.

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
City of London (06.02.13)	One board per business allowed against the building leaving a minimum of 1.83 metres.	The City of London has an informal protocol. A formal policy is being developed.	We have a copy.	None for A-boards.	125 businesses spoken to in order to gain compliance. Half this number had further action taken against them.	Both patrols and responds to complaints.	Nine officers.	The City of London is reviewing its procedures.
City of Westminster (25.01.13)	Where they [A-boards] are included in the equipment for a tables and chairs extension of that business onto the highway, they must remain within the permitted area. In all other cases 'A' boards or similar advertisements on the public footway will not be tolerated.	Yes. It is contained in adopted public realm policy - The Westminster Way.	Available on Westminster's website.	529 complaints re A-Boards of which 409 were generated by pro-active visits by enforcement officers.	For A-boards there were 103 1 st warning letters, three seizures and 6 formal warning letters.	Westminster operates pro-active inspections and investigates complaints.	5 FTE within a team.	Refers to local authorities No. 2 bill that was defeated. This sought additional powers to remove items deposited on the highway.
London Borough of Croydon (21.01.13)	Croydon make a judgment on a case by case basis and negotiate with the trader. However they are presently considering using planning law to 'license' A boards.	No	N/A	Three in recent years, but they are aware it is a general concern.	Not available.	Both patrols (particularly in areas of high footfall) and responds to complaints.	30 staff covering many functions including this enforcement activity.	Croydon are looking at licensing A-Boards and are presently informally consulting.
London Borough of Ealing (19.12.12)	Advice followed by FPNs.	Adopted in 2008. Ealing does not allow A-boards on some streets dependent on footfall and width of pavement. On other streets they are allowed subject to a set of rules, size, one per property etc.	Summary supplied.	320 for highway encroachment overall in last 6 months.	3 FPNs, no prosecutions	Pro active patrolling and responds to complaints.	12 officers. This is part of duties.	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
London Borough of Enfield (17.01.13)	Enfield recognises that any obstruction is actionable subject to a de minimis principle. However, they tolerate one board per shop.	They operate according to a general enforcement policy, but there is no specific policy on obstructions.	We have the general policy.	361 complaints.	One prosecution.	Pro active patrolling and responds to complaints.	There are seven officers that have duties relating to highway obstruction.	Considering tackling vehicles that overhang properties into the footway.
Royal Borough of Greenwich (15.02.13)	A-boards are not permitted on the highway and are enforced against when identified.	There is no formally adopted policy.	N/A	3	Several hundred informal notices for highway obstructions, but for other issues than A-boards. 3 FPNs, again not for A-boards	Enforcement is a result of routine safety inspections.	No dedicated officers. Greenwich estimate 1 full time equivalent is engaged in this activity.	
London Borough of Hackney (14.05.13)	A-boards are not permitted on the public highway.	Yes, as part of The Local Environment Enforcement Policy.	Available on the website.	375	295	The authority undertakes pro-active enforcement.	No response.	
London Borough of Hammersmith and Fulham (22.02.12)	Takes a considered view on a number of criteria including whether or not the highway is privately owned. Uses 148(c) of the Highways Act 1980.	No formally adopted policy, but a list of criteria.	We have a list of the criterion H&F use.	818	380 FPNs	Predominantly reactive.	There are 6 officers that have this activity as part of their duties.	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
London Borough of Haringey (03.12.12)	The Council does not give consent for placing A-boards on the highway. However, it does not enforce against boards if they abut the shop as long as 1.8 metres. Additionally enforcement will take place if there are additional issues with an obstruction. Haringey operates a zero tolerance policy on the Wood Green footway.	Has a general enforcement policy, but nothing specific to highway obstructions is identified. Haringey has adopted powers to issue FPNs.	N/A	196 obstruction complaints. Not specifically A-boards.	14 notices, FPNs and prosecutions. Again, not necessarily A-boards.	Part of neighbourhood enforcement officers' duties in addition to dealing with complaints.	19 officers who can issue enforcement notices and FPNs.	Zero tolerance on some streets, e.g. Wood Green. Will sometimes remove A-boards at will for obstruction.
London Borough of Harrow (21.11.12)	Harrow states that it adopts a robust approach, but appears to be tolerant of A-boards, particularly where they are on forecourts or adjacent to such areas.	No particular policy.	N/A	Not stated.	No information.	Not stated.	There are 8 officers that undertake this activity.	
London Borough of Havering (27.11.12)	Havering carries out limited enforcement. Its primary approach is more one of advice than enforcement. [Havering are presently reviewing their approach (29 October 2013)]	No adopted policy, but licensing is being considered.	N/A	4 members' enquiries. No public complaints.	None.	Havering is pro-active regarding overhanging foliage. Answer implies not with respect to other highway obstructions.	There are 12 officers that would perform this function.	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
London Borough of Hillingdon (03.01.13)	Recognises needs of trader's and problems of visual appearance and obstruction.	No formal policy, but had guidance. One per customer entrance. Allows if there is 2 metres of footway. On private forecourt if possible. To be placed at the back of the footway.	Have sent 'guidance'.	No separate reporting of footway obstruction complaints.	No FPN's for advertising board offences, but numerous notices.	Both in response to complaints or officer's observation.	Part of duties of 12 officers.	
London Borough of Hounslow (21.11.12)	Takes active and reactive action against 'unlicensed' A-boards including removal.	No formal policy relies on Highways Act 1980.	N/A, but the response talks about 'unlicensed' A-boards?	261 general highway obstruction complaints. 25 specific A-board complaints.	25 FPNs for highway obstruction.	Authority takes both pro-active and reactive response against unlicensed A-boards.	4 officers have this as part of their duties. Some highways enforcement is undertaken by highways officers.	All highways related functions have been transferred to a 25 year PFI contract.
London Borough of Islington (14.01.13)	Islington license A-boards. Location is by agreement and there must be 1.8 metres clearance. Though we were told by officers that this was only aspirational.	Yes. As part of a wider policy document to assist pedestrians.	Available on the website.	60 complaints all resolved without prosecution.	None. We have engaged with Islington who initially did not enforce against traders, but subsequently changed this approach.	Not specified. Islington did respond to our complaint.	1.5 fulltime employees cover this function as part of their role.	
The Royal Borough of Kensington and Chelsea (26.11.12)	Takes a very pro-active stance on clutter. On their main high streets they clear A-boards, but on other streets they appear to be allowed.	Yes, they have a thoughtful policy adopted in 2010 and know what they are about.	Yes and received.	1,500 complaints relating to obstructions.	148 FPNs, 2 cases considered by legal team.	Very pro-active. One officer per ward.	22 officers have this as part of their duties.	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
Royal Borough of Kingston upon Thames (27.12.12)	Operates 'zero tolerance' approach in dealing with A-boards on the highway. Policy states that 'The placing of street advertising boards ('A' boards) on the public highway is unlawful'.	Adopted policy in 2006.	We have received a copy.	22 complaints regarding A-boards.	Does not issue FPN's or prosecute. We understand enforcement is undertaken using removal notices, Section 17 notices under the London Local Authorities and Transport for London Act, 2003. There have been 11 removals since 2009.	Kingston is very pro-active. A-boards are dealt with as part of routine work.	2 compliance officers.	Kingston is very active. Council officers have undertaken 2,000 visits to 500 businesses. A system of warning letters with the threat of removal is the enforcement system that is used.
London Borough of Lambeth (10.01.13)	Lambeth requires 1.8 metres clear access to be maintained. The authority is keen to ease the burden on small business.	No adopted policy.	N/A	Not known.	Not known.	Undertake pro-active patrols.	15 general enforcement officers.	
London Borough of Lewisham (14.12.12)	Allow boards next to premises if sufficient space to walk freely. Where a hazard is found enforcement notice is issued. This approach is because of the number of A-boards.	No formal policy.	N/A	8 complaints a year.	Issues notices. No FPNs have been issued.	Highway officer role, but generally rely on complaints.	Not stated.	
London Borough of Merton (19.11.12)	Highway inspector negotiates with owner or removes if width is not adequate.	No written policy.	N/A	320 including responses to routine inspections.	6 notices - caravans and materials on footway. No A-Boards appear to have been enforced against.	Merton responds to complaints and in response to routine inspections.	8 officers undertake this work as part of their function.	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
London Borough of Newham (11.01.12)	Is pro-active in dealing with highway obstructions. The primary enforcement approach is the issuing of fixed penalty notices.	Unclear.	N/A	27	541 FPNs issued, no prosecutions.	Is pro-active in undertaking enforcement patrols.	43 Uniformed highway enforcement officers that do this work as part of their duties.	
London Borough of Redbridge (07.12.12)	Do not enforce against a small A-boards on a wide footway. Describes this as de minimis.	No policy - Highways Act.	N/A	57	38 FPNs issued.	Does not patrol, but does respond to complaints.	There are 10 officers which have this activity as part of their jobs.	
London Borough of Richmond (28.11.12)	Policy allows A- boards generally adjacent to the building if there is 1.5 metres unobstructed footway except on specific streets of high footfall where they are not allowed. Signs, boards, displays etc. must be such that they can easily be detected by the visually impaired and easily negotiated by those with mobility difficulties. Those boards causing problems will eventually be removed.	Adopted in 2007 and on website.	On website.	1,000 reports of highway obstructions a year.	No info. Enforcement notices generally complied with.	The authority responds to complaints. Many of these are a result of regular safety inspections.	6 officers do a mixture of highway enforcement duties.	Richmond is considering the use of FPNs.
London Borough of Southwark (12.12.12)	Southwark 'license' A-boards. Main concerns safety. Require minimum width of 1.2 metres. A-boards are treated as street furniture.	Yes adopted in June 2012.	We have a copy and the policy is published on Southwark's website.	Small number.	86 enforcement notices.	Responded to issues subsequent to new policy.	6 officers undertake this activity as part of their work.	
London Borough of Sutton (28.11.12)	Generally allow A-boards subject to vague criteria. Sutton is considering licensing.	No policy.	N/A	131 complaints.	No FPNs issued.	Roads undergo statutory inspections. Sutton responds to enquiries.	4 general highway inspectors.	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
Transport for London (12.02.13)	Transport for London has designated some of its streets as areas of 'zero tolerance' to A-boards. They are expanding this approach, but will not be applying to all of their streets. On these other streets they allow 1 board per premises, appropriately sited.	The policy is not formally adopted, however a paper outlining the approach was presented to TfL's Surface Transport panel (a sub-committee of the TfL Board) on 8 November 2011.	The Surface Transport Panel paper refers to guidance. This has been requested.	405	512 informal enforcement actions, 168, notices issued, 1 prosecution.	Pro-active enforcement is undertaken prioritising the zero tolerance streets.	There are 28 officers whose roles include this enforcement activity.	Streets where TfL takes a 'zero tolerance' approach: A200 Tooley Street, A200 Duke Street Hill, A3 London Bridge, A3 King William Street, A10 Bishopsgate, A10 Gracechurch Street, A501 City Road (Moorefield Eye Hospital approaches), A3211 Upper Thames Street, A3211 Lower Thames Street, A3211 Byward Street, A3211 Tower Hill, A4 Knightsbridge, A4 Cromwell Road, A4 Cromwell Gardens, A4 Thurloe Place, A4 Brompton Road, A3211 Victoria Embankment
London Borough of Tower Hamlets (09.01.13)	General statement about dealing with highways obstructions on their own merit with a view to safety and free access for the public. The letter does, however refer to footway licenses being refused for A-boards.	None	N/A	58	15	Do not undertake specific patrols for highways obstruction, but the authority does have streets officers who deal with this issue.	Unclear	

Borough and date of receipt of letter	i) approach of authority to enforcement of obstructions	ii) Is the policy formally adopted? Was it developed taking account of equalities duties?	iii) Please send a copy of the policy and /or procedures	iv) How many complaints were received about footway obstructions in the last year?	v) How many enforcement notices etc were issued in the last year?	vi) Does authority undertake pro-active enforcement or just respond to complaints?	viii) How many officers (FTE) are committed to this activity?	viii) Please tell us any other issues you think are relevant to this issue.
London Borough of Waltham Forest (12.12.12)	Have an A-Board policy which, subject to numerous criteria allows boards at the back of footway allowing 1.8 metres. Not allowed on tactiles or within 10 metres of a pedestrian crossing.	Yes. The policy is very comprehensive. It was adopted 2 years ago. Waltham Forest, unusually, quote section 132 of the Highways Act 1980 and apply a 48 hour notice period.	Yes. We have a copy of the policy.	397	587 notices, 288 FPNs, 1 prosecution.	Officers undertake both reactive and pro-active enforcement.	19 officers conduct this work as part of enforcement activities.	Waltham Forest is concerned about the proliferation of cabinets on the footway that are getting permission under telecoms legislation.
London Borough of Wandsworth (11.01.12)	There has been a lot of consideration of this issue by Wandsworth. This has concluded two buggy widths, 2 metres is acceptable. Board must be against wall or in a private forecourt area.	Yes, 2009.	We have a copy of Wandsworth's protocol.	6	0	Pro-active and reactive enforcement.	0	

Appendix 3

TfL schedule of prestige footways with 'zero tolerance' for 'A' Boards.

A zero tolerance approach to advertising boards on these roads was agreed in November 2011 by TfL's Surface Transport Panel:

A200 Tooley Street

A200 Duke Street Hill

A 3 London Bridge

A3 King William Street

A10 Bishopsgate

A10 Gracechurch Street

A501 City Road (Moorefield Eye Hospital approaches)

A3211 Upper Thames Street

A3211 Lower Thames Street

A3211 Byward Street

A3211 Tower Hill

A4 Knightsbridge

A4 Cromwell Road

A4 Cromwell Gardens

A4 Thurloe Place

A4 Brompton Road

A3211 Victoria Embankment

The following have been described as additional areas to be covered.

Established

Bishopsgate/Gracechurch Street
Brompton Road
Victoria Embankment
Tooley Street

City of London
Kensington and Chelsea
Westminster
Southwark

In Progress (i.e prior to May 2013)

Stoke Newington High Street

Nags Head

Clapham High Street

Borough High Street

Balham High Road

Hackney

Islington

Lambeth

Southwark

Wandsworth

May 2013 Rollout

Camden High Street

Edgware Road

Whitechapel Road

Camden

Westminster

Tower Hamlets

September 2013 Rollout

Finchley Road

Earls Court Road

Kingsland High Street

Upper Street

Streatham High Road

Peckham High Street

Tooting High Street

Wandsworth High Street

Camden

Kensington & Chelsea

Hackney

Islington

Lambeth

Southwark

Wandsworth

Wandsworth

Appendix 4 The principle of de minimis

The principle of de minimis is a legal doctrine by which a court refuses to consider trifling matters. It literally means 'the law cares not for small things'.

Some local authorities argue that the principle of de minimis allows them to do as they please. For example the City of London's legal advice to its cleansing teams was passed to us:

'With regards to Mr X's submissions on S.137 of the Act, there are grounds to argue that anything placed on the highway constitutes a technical obstruction of the highway. Consequently, there has been case law developed over the years which has created what is known as the "de minimis" rule which states that even where the obstruction is an unreasonable use of the highway it is so minor so as to fall outside the criminal sanction. You may wish to argue that the City's protocol is based on this rule and as such tolerates "de minimis" obstructions.

The simple answer to the issue of enforcement under S.149 of the Act is that it is for the City, as highway authority, to decide whether or not the A-board constitutes a "nuisance" or a "danger" within the provisions of S.149 of the 1980 Act.

I note Mr X's submissions as to S.130(3)(a) of the Act but I believe that this provision is intended to deal with more serious issues than the placing of an A-board on a pavement (see the "de minimis" argument above)

This is an interpretation that highway authorities use to allow them ignore obstruction, but misunderstands the case law. Two cases are relevant. The first gives an example of a newsagent's paper rack overhanging the pavement, the second cites an obstruction of only a matter of few inches. Counsel has said at a conference we attended that case law means that 'de minimis really does mean de minimis'.

Appendix 5 TfL and Borough Complaints pages

The following are the various website pages and email addresses for London boroughs that can be used to complain about highway obstructions:

Transport for London (all those streets that have red (not yellow) traffic restriction lines.

https://custserv.tfl.gov.uk/icss_csip/resetSession2.do?Standalone=yes&showmodule=name=false

At webpage choose: Make a complaint > Streets > Enforcement

Barking and Dagenham

General email: 3000direct@lbdd.gov.uk

Barnet

<http://barnet.fixmystreet.com/>

Bexley

<https://mybexley.firmstep.com/firmstep/services/highway-defect>

Brent:

<https://portal.icasework.com/services/brent/form?Type=Complaint&Team=CUSCEN TRE&Login=false>

Bromley

<https://fix.bromley.gov.uk/>

Camden

<https://forms.camden.gov.uk/cus/servlet/ep.app?ut=X&type=84839171979&auth=205&Applicant1.ServiceCategory.Value=On%20street%20%28litter%2C%20flytips%20etc%29>

City of London

<https://www.cityoflondon.gov.uk/report-pay-apply/fault-reporting/Pages/fault-reporting-form.aspx>

Croydon

highwaysmaintenance@croydon.gov.uk

Ealing

<http://www.ealing.gov.uk/forms/form/86/en/1/Report%20Street%20Problem?option=1>

Enfield

https://forms.enfield.gov.uk/ufs/ufsmain?esessionid=1&formid=EC_REPORT_M3&REPORT_SOURCE=WEB&esessionid=1

Greenwich

https://www.royalgreenwich.gov.uk/site/scripts/xforms_form.php?formID=96&language=en

Hackney

http://apps.hackney.gov.uk/ufs/ufsmain?ebz=1_1360749239304&formid=ENV_REPORT_CARRIAGEWAY_FAULT

Hammersmith

<https://www.apps3.lbhf.gov.uk/cus/servlet/ep.app?ut=X&admin=N&prv=N&email.destination.Value=SMBEM&type=32802&auth=10014&subject.category.Value=Streets+and+Public+Places&subject.type.Value=Advertising+boards&context=Cleaner%20Greener%20Reporting%20Facility>

Haringey

https://eforms.secure.haringey.gov.uk/ufs/ufsmain?esessionid=8CB654AD7D240F652A557601589C1C11_1&formid=REPORT_A_PROBLEM&WHAT_IS_THE_PROBLEM=Roads+%28potholes+etc%29

Harrow

<https://eforms.harrow.gov.uk/default.aspx/RenderForm/?F.Name=fhrzozIBbUu&HideAll=1>

Havering

<https://www.havering.gov.uk/Pages/FormLocationDetails.aspx?F.Name=F4KwjcNLRNw>

Hillingdon

<https://services.hillingdon.gov.uk/?articleid=22416>

Hounslow

enquiries@hounslowhighways.org

Islington

streetworks@islington.gov.uk

The Royal Borough of Kensington and Chelsea

streetline@rbkc.gov.uk

Kingston upon Thames

<https://services.kingston.gov.uk/RunService.aspx?ServiceId=3d7e4542-c3ba-e111-afcd-005056ad0064&ServiceName=HighwayEnforcement&AuthenticationLevel=Anonymous&IsOrganisation=False>

Lambeth

Telephone: 020 7926 0524

Lewisham

<http://www.lovelewisham.org/Reports>

Merton

<https://webforms.merton.gov.uk/default.aspx/RenderForm/?HideAll=1&F.Name=AvWBTaH8Cgt>

Newham

This page doesn't say obstruction, but I am told it goes to the right place.

<https://my.newham.gov.uk/Cases/NewCase.aspx?service=162aad77-ac65-e011-a7f2-00155d361800>

Redbridge

General email address: customer.cc@redbridge.gov.uk

Richmond

<http://richmond.firmstep.com/default.aspx/RenderForm/?F.Name=JjQnDj1Kz2w&Hid eToolbar=1&Type Code=OBSTRUCTION&HasJS=true>

Sutton

<http://reportit.sutton.gov.uk/arsys/apps/lbs-css/Report+It/Report+It/Create/?cacheid=54093e83&format=html>

Tower Hamlets

<https://webforms.towerhamlets.gov.uk/AF3/an/default.aspx/RenderForm/?F.Name=NeKWTBtXUU1>

Waltham Forest

<https://oldsite.walthamforest.gov.uk/form-street-services.htm>

Wandsworth

http://www.wandsworth.gov.uk/forms/form/181/report_street_defects

Westminster

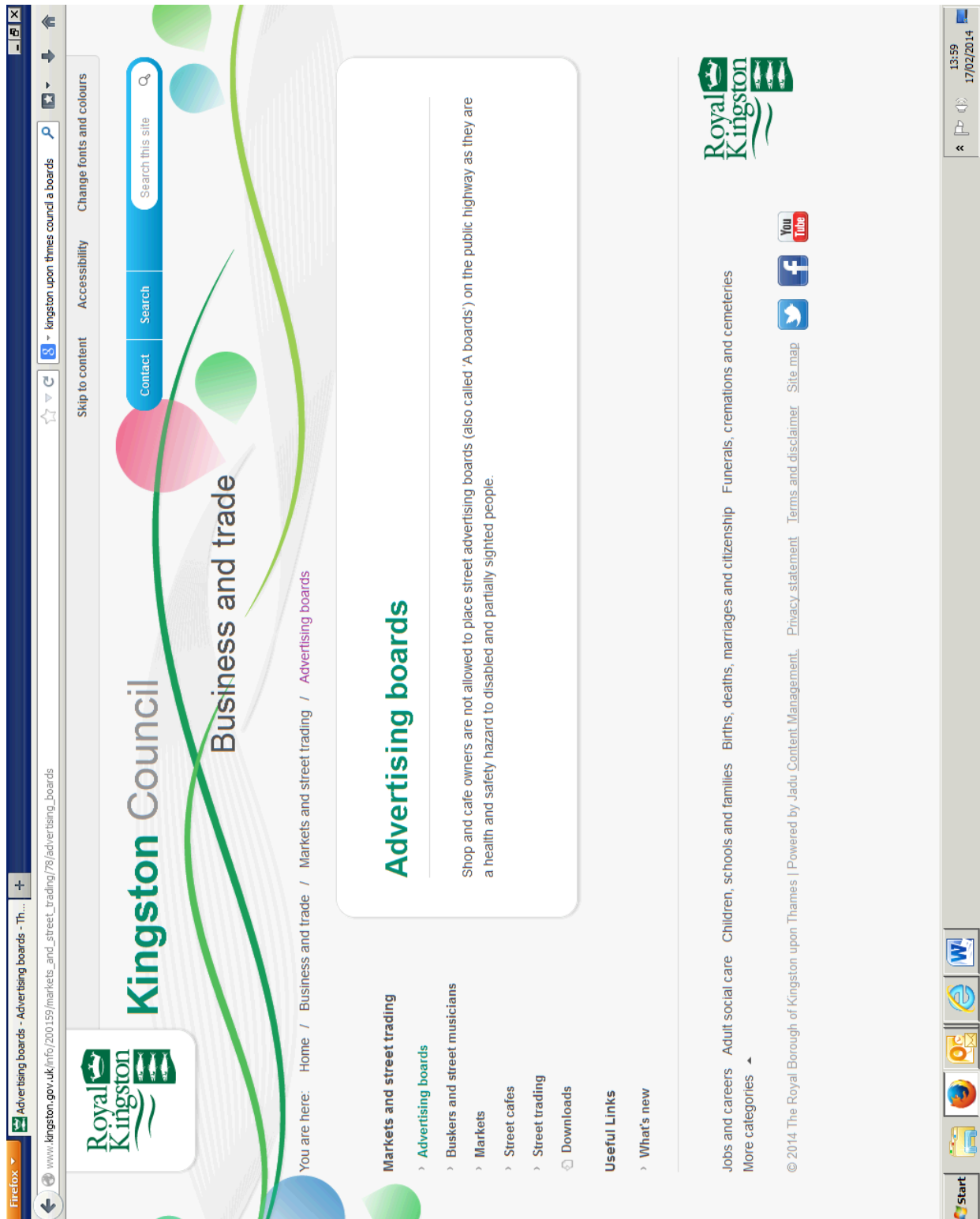
<http://transact.westminster.gov.uk/smc/SMCPage2.cfm>

Appendix 6 Some best practice

Kingston council website

www.londontravelwatch.org.uk

44



Inclusive streets

www.londontravelwatch.org.uk

44



An **A-board** is a free standing board advertising the goods or services of a business.

A-boards are usually placed outside shops, cafes or other businesses to attract customers.

A-boards can be a major hazard to pedestrians, especially people with visual impairments or physical disabilities. They can clutter the pavement, making it difficult for people in wheelchairs or people with pushchairs to use the space.

Well designed, uncluttered streets increase footfall and are beneficial to local businesses.

To make sure our streets are accessible to all, and to make sure we are consistent, **no A-boards are allowed on the public highway in Hackney.**



Why are A-boards not allowed on the public highway?

It is in the interests of residents, business owners and visitors that Hackney's high streets are open and accessible to all.

We have a duty to protect the public's access rights on roads and footways. It is an offence to wilfully obstruct any user of the highway, without lawful excuse or authority.

Since 2006 we have been removing street furniture including bollards and other obstacles, and have removed more than 6km of railing. We need businesses to help to keep our streets free of clutter.

Our approach is supported by the Royal National Institute of Blind People (RNIB) and Disability Back Up. RNIB says:

"It is essential for many people, including blind and partially sighted people, to have a clear route to walk along a pavement. Walking past shops too often involves running the risk of serious injury from advertising boards spread across the pavement, sometimes causing a dangerous obstruction."

Falling over an A-board can be both painful and confidence knocking. The unmonitored, under-regulated and over use of the boards is dangerous and obtrusive."

RNIB supports a complete ban on A-boards. A complete ban will enable many people to walk along their local streets without fear of colliding with a heavy, painful sign."



Can I put an A-board on land I own?

You can place A-boards on private land. This includes:

- the enclosed area in front of a shop
- a terrace in front of a restaurant or cafe.

It does not include the area of pavement in front of premises which forms part of the highway.

Owning the cellar under a public highway does not automatically mean there are rights to place A-boards on the area above.

Notices, signs or A-boards on private land will not need planning permission if:

- the total permitted area of all advertisements does not exceed 4.6 square metres
- they are not illuminated.

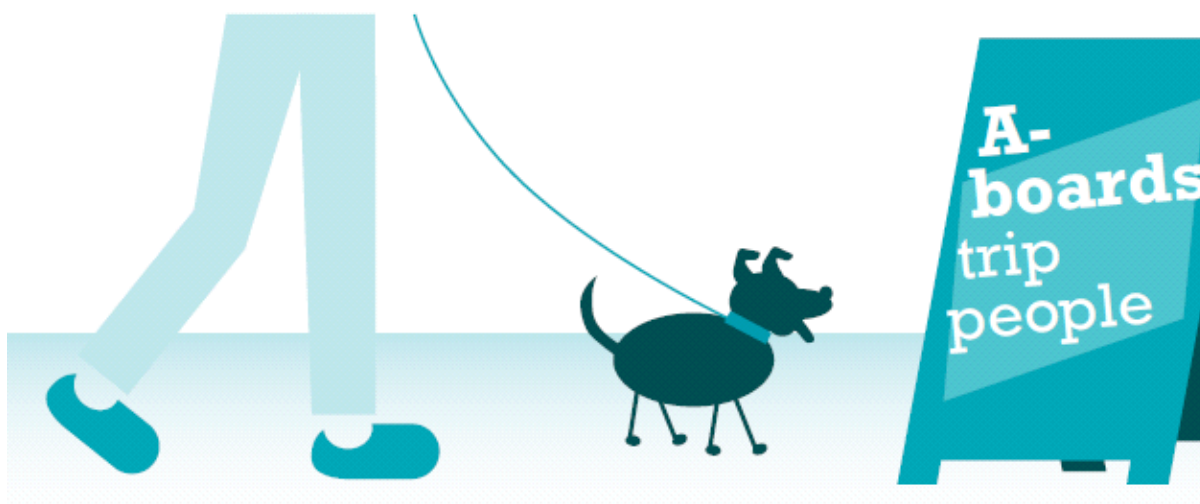
If I have a tables and chairs licence can I display an A-board?

No. A tables and chairs licence is for tables and chairs only.

We have to be fair and consistent. This means that no A-boards can be put on the public highway whether or not that space is licensed for another activity.

How can I advertise special offers?

Chalk boards or white boards can be displayed in shop windows or fixed to an external wall next to a window.



How else can I advertise my business?

There is a wide variety of notices, signs, awnings and advertisements that have deemed consent. This means you do not need specific planning permission to erect them.

To benefit from deemed consent rights, there are certain conditions you must follow. These are broadly:

- Signs may only advertise the goods or services available at your premises.
- If your business is a shop, signs should only be put on external walls which have shop windows on them.
- A sign must not:
 - have any letters, figures or symbols over 0.75 metres in height, or 0.3 metres in a conservation area
 - have its highest part at more than 4.6 metres above ground level, or 3.6 metres in a conservation area
 - have its highest part above the level of the bottom of the first-floor window in the wall where the advertisement is
 - project more than one metre from the wall or exceed two thirds of the width of the pavement below it.

If your advertisement or signs fall outside the deemed consent rights, you may apply to the council for advertisement consent, which will be assessed against our planning policies.

If your shop is a listed building or in a conservation area you should contact the planning department to find out if you need specific consent.



Help us make Hackney's streets open and accessible for everyone

For detailed guidance on signs and advertisements and information about advertisement deemed consent, search for 'Outdoor advertisements and signs: a guide for advertisers' online at **GOV.UK**



For advice about A-boards and highway obstructions:

enforcementsupport@hackney.gov.uk

020 8356 4504

For advice about planning consent:

planning@hackney.gov.uk

020 8356 8062



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TfL warning letters



[ADDRESS]

TfL Highways
8th Floor
Palestra
197 Blackfriars Road
SE1 8NJ

Tel:- 0845 305 1234

11 November 2013

Dear Sir / Madam

Advertising 'A' boards on the footway.

Transport for London (TfL) is responsible, on behalf of the Mayor of London, for London's principal roads, the TLRN (formerly known as Red Routes). An objective of the Mayor's Transport Strategy is to make it easier for cyclists, pedestrians and disabled people to get about. In support of that objective, TfL has removed miles of unnecessary pedestrian guard rail and thousands of unnecessary traffic signs and bollards. In this way we have made simple but effective improvements to the pedestrian environment.

TfL has also set a priority for the removal of unauthorised obstructions from its roads, as such items can cause inconvenience to pedestrians, present a hazard - particularly for people with poor eyesight and make the street feel unnecessarily cluttered. I am sure you will appreciate the benefits that clear and unobstructed footways can bring to an area.

The purpose of this letter is to make all local businesses aware of the action that TfL is taking to declutter your area, by removing unauthorised advertising 'A' boards. In the coming weeks we will be serving Removal Notices and issuing Fixed Penalty Notices to those businesses that continue to obstruct the public footway with 'A' boards. We hope that you and your customers will appreciate the clearer and safer streets that will result from this initiative.

If you want to discuss this issue, please contact me via the number above. I will be happy to give you further advice and guidance, but of course I cannot authorise any local business to continue placing 'A' boards on the highway.

(Name)
Route Manager

SQA-8009 v4.2

MAYOR OF LONDON

[ADDRESS]

TfL Highways
8th Floor
Palestra
197 Blackfriars Road
SE1 8NJ

Tel:- 0845 305 1234

11 November 2013

Dear Sir/Madam

Advertising 'A' board on the Public Highway

I recently wrote to you relating to decluttering of the footways in your area, advising that TfL will be taking action against businesses who continued to place advertising 'A' boards on the street.

The road outside your property, together with a number of other roads are designated as places where unauthorised 'A' boards are not permitted to be left on the highway under any circumstances. It now appears to TfL that one or more 'A' boards which relate to your property are being left on the footway. TfL considers this to constitute an obstruction of the highway and they should be removed immediately.

TfL has powers granted under section 149 of the Highways Act and Section 17 of the Local Authorities and Transport for London Act 2003, which empower the removal of these 'A' boards and a notice requiring their removal is printed on the reverse of this letter. TfL may also choose to issue Fixed Penalty Notices (FPNs), currently £100 per offence, under powers provided by The London Local Authorities and Transport for London Acts of 2003 and 2008. There are no time constraints on the issue of FPNs.

Should you wish to clarify the extent of the highway, or any other issue relating to this letter, then please contact TfL at the address, or telephone number given above.

I trust that it will not be necessary for TfL to act upon this notice and thank you for your cooperation in keeping the footways close to your premises clear of obstructions.

Yours faithfully,

(Signatory for TfL)
[Insert Name]



The proprietor, Address

Removal Notice

Section 17 (2) of the Local Authorities and Transport for London Act 2003.

Transport for London is satisfied that things have been deposited unlawfully and persistently on part of the highway listed in paragraph 2 below and that the depositing of those things is a nuisance.

This notice requires the removal of those things.

1. This removal notice shall come into effect on **date** and shall be in effect for a period of 28 days.
2. This notice relates to **Road Name**.
3. During the period in which this notice has effect, TfL may without further notice remove any things deposited unlawfully on the part of the highway listed in paragraph 2.
4. TfL may recover its expenses in removing, storing or disposing of the obstruction from any person claiming to be entitled to it.
5. Should TfL remove the thing from the street it may dispose of it, unless it is recovered by a person entitled to it, no sooner than 14 days following its removal.

Dated **Date**

Signed

Authorised to act with the authority of Transport for London in its capacity as highway authority.

Notes :-

1. If you consider that this notice has been wrongly served on you, (e.g. because you are not responsible for the sign), you should contact, TfL at the address overleaf.
2. You may wish to consider taking legal advice