

Planning Transportation and Highways – Policy Document

A-Boards

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Review Date	April 2018

1 Background

The placing of 'A'-Boards outside premises on the public highway poses a potential danger to pedestrians – particularly to partially sighted/blind and vulnerable members of society.

2 Council Position

On 7th November 2017 Executive Committee resolved the following;

That Executive:

- a) **Approves the introduction of a total ban on the use of advertising boards on areas of adopted highway on a district wide basis.**
- b) **Approves the proposed Advertising Board policy and the arrangements for its advertisement, implementation and operation described in this report.**
- c) **Approves the proposed date of implementation of the ban of 1st April 2018.**

As such, the stated position of the Authority is that no such boards be allowed on the public highway.

3 Relevant Enforcement Legislation

Highways Act 1980 – Sect. 137 – Penalty for wilful obstruction.

Highways Act 1980 – Sect. 148 – Penalty for depositing things or pitching booths etc. on highway.

Highways Act 1980 – Sect. 143 – Power to remove structures from highways.

Highways Act 1980 – Sect. 149 – Removal of things so deposited on highways as to be a nuisance etc.

Anti-Social Behaviour, Crime and Policing Act 2014 - Part 4 - Community Protection Notices.

4 Guidance for Officers

“Public Highway” in this instance is defined as the surface layers of any area maintainable at public expense, including footway, verge and carriageway between private property boundaries, excluding dedicated park land. Public rights of way are to be included in the policy.

There may be occasions where A-Boards are placed on private land immediately adjacent to the building in question and not on the Public Highway. In these instances, CBMDC Highways have no powers to enforce removal.

In specific instances, where the ownership of land is disputed, the owner should be asked to take the board down for safety reasons until the issue is resolved. They should also be asked and provide evidence that they own the land in question.

If they refuse to remove the board, the dispute should be noted and the date and time of the visit should be recorded.

Until such time as a definitive ruling on the extent of highway (adopted or un-adopted) can be made by the Council progression onto the next stage of enforcement action shall not be taken. The definitive Highway Record is held by The City of Bradford MDC Highway Records Officer. Anisah Naz — 01274 433707 – anisah.naz@bradford.gov.uk

Use of Community Protection Notices (CPN)

CPN's are intended to be served in cases of antisocial behaviour. It is suggested that in order for a CPN to be issued a definitive pattern of repeat offences needs to be established.

In this instance it is suggested that after **2 repeat** instances of A-Boards being placed outside a particular business, a CPN is considered.

The issuing of a CPN is a formal process that requires a consistent evidence base and a caution to be issued PRIOR to moving to formal stage.

Following the issue of a CPN Offenders may be served with a Fixed Penalty Notice fine up to £100 per breach to mitigate the offence or - should the authority decided to prosecute – a fine up to £2,500 (for an individual) or up to £20,000 (for an organisation or corporate body).

The issuing of CPN's is covered in a separate policy document.

5 Removal Procedure

- A-Board location to be noted, date and time of encounter to be recorded.
- Photographic evidence of A-Board, including siting to be taken – to include relevant nearby landmark/structure etc.
- Above information to be passed to Highways for recording
- Relevant Businesses/owner of A Board to be contacted and asked to remove permanently no later than the close of the current working day.
- If not removed by the business in question by the next day, the board is to be removed from the Highway by an authorised officer.
- Boards will be retained for 10 working days, after which they will be disposed of.
- Anyone wishing to reclaim the board can do so, at a cost of £200, this covers collection, storage and administration – payment should be made via the Authority's website at the url below.
- Advice regarding suitable alternatives to A-Boards is available on the Authority's website at the url below.

<https://www.bradford.gov.uk/transport-and-travel/highways/control-of-advertising-boards-and-display-of-goods-on-the-highway-pavements-of-the-bradford-district/>

5 Enforcement Timescales

- i. This policy relates to items either specifically reported to the Authority by the public or those directly encountered by officers on site in the course of their duties.
- ii. Initial responses to A Board complaints from the public should be undertaken within 10 working days where possible. This may take the form of noting for action when visiting a particular area.
- iii. Where multiple complaints are received from a single source enforcement will be undertaken at officers discretion to allow time for other issues to be dealt with proportionately.

6 Notes

- i. An initial guidance letter to all retail properties in Bradford District will be sent out with the corporate 2018 business rates documentation – a copy of this letter is included in Appendix A.
- ii. A copy of the letter in (i) above is to be included as standard in response to new planning applications and change of use applications for retail premises.
- iii. This policy is to be reviewed annually following introduction



Standard A-Board Letter

Advertising Boards on adopted highway

Department of Place

Planning, Transportation &
Highways Service

4th Floor Britannia House
Hall Ings
BRADFORD
BD1 1HX

Tel: 01274 43100

Date as Postmark

In 2017 following a 12 month trial ban of advertising boards in the Bradford district the Council confirmed that it would implement a total ban of advertising boards and pavement obstructions across the district. This letter is provided to clarify the legal position of the Council in undertaking enforcement action in relation to the requirements of this policy.

City of Bradford Metropolitan District Council is the Highway Authority as defined under the Highways Act 1980 and has a statutory duty to ensure that the highway comprising the roads and pavements is kept safe and free from obstruction.

The Council will therefore exercise this duty on any land which is **designated as public highway**, whether it is adopted or un-adopted as it is an offence to obstruct the highway under Section 130 of the Highways Act 1980. It is similarly an offence to wilfully cause an obstruction to any public footpath or public thoroughfare under Section 28 of the Town Police Clauses Act 1847. Under Section 31 of the Highways Act the designation of highway may also arise from the use of land for an uninterrupted period of 20 years and therefore the Council may consider that land which has not formally been dedicated or adopted is appropriately designated as highway.

The land outside your premises is recorded as public highway. As such although you may have details on your deeds showing that you have ownership of the land outside your premises the existence of a public highway on this land supersedes any land ownership rights. That is to say the Highway Authority has precedence in legal consideration of activities on the highway land over the land owner.

Under the provisions of the Equality Act 2010, it is also unlawful for service providers and those exercising public functions, including highway functions, to discriminate against disabled people. This includes a duty not to indirectly discriminate and to make reasonable adjustments where existing arrangements place a disabled person at a substantial disadvantage.

As the duties under the Highways Act 1980 are statutory duties, the Council consider that it is reasonable and proportionate for the Council to exercise enforcement duty also under this Act.

Yours sincerely

RICHARD GELDER
Highways Services Manager



City of Bradford
Metropolitan District Council

