

PROCEDURE 14

A-Boards or other Obstructions

Highways Procedures

Procedure for A-Boards or other Obstructions (inc. Goods) on the Highway which do not meet Coventry City Council guidelines.

1. Purpose

To set out the procedure for dealing with items placed upon the highway, (which includes footpaths, paved areas and pavements) and/or attached to highway property. It does not apply to boards on private property, including privately owned shopping centre areas.

2. Scope

To ensure the free passage for pedestrians along footpaths and the highway;
To seek an improvement in the visual street environment by the controlled use of A-Boards and other items on the Highway in the street;
To ensure that powers contained within the legislation to tackle A-Boards are applied fairly and consistently

3. Notes (If Applicable)

4. Related Procedures

Environmental Services Obstruction procedure (appendix A)

5. Process

1. Legislation

Under S137 of the Highways Act 1980, a highway authority can prosecute any person who obstructs the free passage of the highway pavement. S28 of the Town Police Clauses Act 1847 states that it is an offence to place goods for sale on a footway.

This procedure aims to minimise the need for exercising these statutory powers by using the City Councils Common Law powers to deal with Nuisance (thus avoiding the need to resort to Courts).

Whilst CCC aims to permit A-boards and shop displays that do comply, it may be obliged to take enforcement action in certain circumstances. If this happens fair warning shall be given before any action is taken. Obstructions which do not comply with the code will be liable to prompt enforcement action.

See Appendix A Legislation.

2. Advertising Boards etc ('A' Boards / For Sale or To Let board, banners etc on the highway)

- (a) No 'A' Board / For sale/To Let Board , advertising banners etc shall be fixed permanently onto the highway. A Boards must be temporary in nature so they can be easily removed in their entirety at the end of each trading day. Any unauthorised material attached to any street furniture will be removed immediately without any Notice being given and to be disposed of accordingly.
- (b) For Sale / To Let boards / Banners placed on the highway will not be permitted.
- (c) The following conditions are applicable to placing Advertising Boards on the highway and must be adhered to in all cases. Every 'A' Board should comply with these key principles:
 - (d) A-boards should not be any bigger than 0.6m wide and 1.1m high. They should have a solid base so that they can be tapped by a visually impaired person using a long cane;
 - (e) A-boards should be positioned so that an absolute minimum pavement width of 1.8m is kept clear for pedestrians and in some locations where there is a high pedestrian flow the City Council may require a greater width. This is to ensure that there is no

obstruction or danger to any highway users, particularly visually impaired, and disabled, or those with pushchairs etc. A-boards should not be located in the middle of pavements;

- (f) It is desirable for A-boards to be lined up with each other and with street furniture (bins, lamp posts, etc.) to keep pedestrian routes clear;
- (g) The A-board is the responsibility of its owner and the City Council will not be liable for any injury or damage caused;
- (h) The design of the A-boards should not be distracting or confusing to motorists;
- (i) 'A' boards must not obstruct sightlines of vehicle drivers, nor block visibility for pedestrians;
- (j) 'A' boards will not be allowed on central reservations, roundabouts and busy traffic junctions;
- (k) In pedestrian areas these principles will generally apply although the special nature of these areas means that each case will be considered on an individual basis. A route for emergency vehicles (minimum 3.5m) is normally required in pedestrian areas.

3. Display of goods

The following conditions apply specifically to the display of goods on the footway of a public highway:

- (a) Displays should only be located outside the frontage of the premises so that staff and customers do not have to cross the normal flow of pedestrians. The items in the display should only relate to the business carried out and must not obstruct access into the premises or any fire doors etc.
- (b) All displays must be entirely against the frontage of the trading establishment. A pavement must be at least 2.8m wide before any shop displays are allowed on it.
- (c) The display must not take up more than one-third of the available pavement up to a maximum of 2.5m. A minimum pavement width of 1.8m must be kept clear. In some locations where there is a high pedestrian flow the City Council may require a greater width to be kept clear.
- (d) Goods detached from the frontage will not be permitted under any circumstances.
- (e) Shop displays must not cause a visual distraction or obstruct sight lines of vehicle drivers, nor block visibility for pedestrians.
- (f) No selling or trading will be permitted upon the highway. All transactions must take place within the trading establishment.
- (g) This procedure does not relate to goods displayed at market, street fetes, or lay-bys which are regulated by local byelaws or other special regimes. Any Additional requirements made by the Council, Police or Emergency Services must be complied with.
- (h) These general conditions may not be appropriate in every circumstance.
- (i) Advertising boards and shop displays may need to be removed during events, to permit maintenance of street works or for other reasonable cause. Any additional requirement by the Council, the Police or Emergency Services, including removal of any items, must also be complied with.

4. Process to be followed for the removal of advertising material etc and display of goods

Action	By
<p>Compliance monitoring will be undertaken as part of the planned programme of highway safety inspections based on the hierarchy of footways and subject to the availability of resources.</p> <p>In addition, ad hoc inspections will be undertaken following the receipt of a complaint or information regarding instances of obstruction of the highway, based on priorities and the availability of resources.</p> <p>In the event obstruction / encroachment is identified during inspections or during their daily activities the Inspector will engage with resident / business in the first instance to advise them of their concerns and instruct them to make changes / remove the obstruction</p>	<p>Highway Street Inspectors</p>

etc and re-visit as necessary to ensure the issue has been addressed.

A boards are acceptable as long as they confirm with the conditions outlined. Should they be causing a nuisance the owner must be instructed to remove / relocate as advised and this should be undertaken with the Inspector on site.

If the A board is causing an immediate danger the owner should be instructed to remove it immediately. If the owner is not contactable or non-compliant the A board can be removed from site and can be disposed of immediately. If the inspector is unable to remove then the Enforcement team can be engaged for assistance / enforcement.

Any unauthorised material attached to street furniture may be removed without notice and disposed of accordingly

Where there is no immediate danger and In the event the resident / business fails to comply with the instruction given by the inspector, the Inspector will then evidence the problem and forward to Environmental Services for enforcement action.

When an enquiry has been received (email, Confirm, Councillor etc) relating to obstruction / encroachment on the highway the enquiry is to be dealt with the same was as detailed above and if enforcement is required it should be then forwarded directly to a member of the Environmental Services team (comprehensive notes are to be included on the Confirm enquiry including dates of visits etc). The group email address is EnvironmentandHousing@coventry.gov.uk confirm enquiry officer can be changed to JA for Joy Adams.

Please see Appendix B – Environmental Services Obstruction Procedure

6. Appendix Documents

Appendix A - Legislation

Highways Act 1980

- S132 (2) – The highway authority may...remove any picture, letter, sign or other mark which has, without consent...been painted...or affixed upon the surface of the highway or upon any tree, structure ...on the Highway.
- Section 137(1) - If a person... in any way wilfully obstructs the free passage along a highway he is guilty of an offence....

Town and Country Planning Act 1990 & the Town and Country Planning (Control of Advertisements) Regulations 1992

- S224 (3) ... if any person displays an advertisement... he shall be guilty of an offence and liable... to a fine ... not exceeding (£1000), and in the case of a continuing offence, £100 (1/10th) for each day during which the offence continues after conviction.
- (4) a person shall be deemed to display an advertisement for the purposes of that subsection if— (a) he is the owner or occupier of the land on which the advertisement is displayed; or (b) the advertisement gives publicity to his goods, trade, business or other concerns. N.B. (5) A person shall not be guilty of an offence... if he proves that it was displayed without his knowledge or consent.
- S 225 (1) ...the local planning authority may remove or obliterate any placard or poster—(a) which is displayed in their area; and (b) ...is so displayed in contravention of regulations made under section 220. *But not* ... within a building to which there is no public right of access.
- (3) ... where a placard or poster identifies the person who displayed it or caused it to be displayed, the local planning authority shall not exercise any power conferred by subsection (1) unless they have first given him notice in writing [that] (a)...it is displayed in contravention of regulations ...(b) ... they intend to remove or obliterate it... (5)(not less than two days from the date of service of the notice).
- *N.B. (4) Subsection (3) does not apply if—(a) the placard or poster does not give his address, and (b) the authority ... are unable to ascertain it after reasonable inquiry.*

Town Police Clauses Act 1847

S28 states that it is an offence to place goods for sale on a footway.

The Equality Act 2010

S20 (4) requires that where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

APPENDIX B

Environmental Services Enforcement Procedure

Obstructions on the Highway

When an officer receives a complaint, they will firstly assess whether the obstruction is causing a dangerous or nuisance to the users of the highway

Dangerous items

If the structure is causing an imminent danger the owner of the structure will be asked to remove it forthwith. If the owner fails to remove the item the officer will arrange to remove it using powers under section 149 of the Highways Act 1980. The costs of removal will be charged to the owner. If they pay the bill the goods will be returned to the owner. If the bill is not paid then an order will be obtained from the magistrates to recover the costs and to ask for a disposal order. The owner will also be issued with a warning or a CPN in line with the process below.

Non-Dangerous items

If the item is not dangerous the officer will check to see if a previous warning has been issued to the owner of the item. If a warning has not been issued, then a warning will be given to the owner along with the new guidelines. The warning will also request that the item is removed.

The purpose of the letter will be to explain how

- To outline how their unreasonable behaviour is affecting local environmental quality.
- To explain what behaviour we expect and an appropriate timescale to comply.
- To highlight the consequences if their unreasonable behaviour continues (they will be issued with a CPN).
- The owner will also be issued with the Goods on Highway guidelines.

If the item is not removed, (or a previous warning has been issued) the owner will receive a Community Protection Notice. The owner of the item will be given a further opportunity to remove the item. The purpose of the notice will be

- To outline how their unreasonable behaviour is affecting local environmental quality.
- To explain what behaviour we expect and an appropriate timescale to comply.
- To remove the items within an appropriate timescale.
- To highlight the consequences if their unreasonable behaviour continues (they will be issued with a FPN of £100 or could face prosecution).
- The owner will also be issued with the Goods on Highway guidelines.

If the item is not removed (or the owner has already been issued with a CPN) then evidence will be taken for breaching the notice. The owner of the item will be informed of the breach and will be given a fixed penalty notice to discharge their liability for prosecution for this offence. If the fixed penalty notice is not paid then this will be followed up with prosecution action. They will also be told to remove the item.

If the item is not removed then the officer will apply to the Justice of the Peace for a seizure order under section 51 of the Anti-Social Behaviour and Crime and Policing Act 2014. This must be following up with prosecution action within 28 days. Failing this then the goods would have to be returned to the owner.

Anti Social Behaviour & Crime and Policing Act 2014

S48 Offence of failing to comply with a notice

S51 Seizure of an item used in commission of an offence

Associated documents – Environmental Services obstruction procedure

Version History

Version	Status	Date	Author	Summary of Changes
Prev	Review	November 2015	Rebecca Alcock	Review of Procedure
1.0	Issue	March 2016	Craig Foxall	Input to new procedural template and format

Version number 1.0 replaces previous 'old format' versions of this Procedure where an 'Amendment' and a 'Revision' lettering system was used.

Reviewers

Name	Role	Business Area
Rebecca Alcock	Senior Street Inspector	Highways - Inspectors

Management Approval

Name	Role	Business Area
Tracy Cowley	Highways Technical Manager	Highways - Technical

Distribution

Name	Organisational Department	Format
All	Highways Engineers	PDF
All	Highways Structures	PDF
All	Highways Drainage	PDF
All	Highways Inspectors	PDF