

Inclusive streets

A report on the accessibility of London's streets

September 2013



London TravelWatch is the official body set up by Parliament to provide a voice for London's travelling public.

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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Foreword

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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.

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.

Pedestrians, particularly elderly, mobility and visually impaired users tell us that obstacles on the pavement are problematical to them. The organisations representing these users are continuously campaigning for action on this issue. Richard Holmes, the London campaigner for the Royal National Institute for the Blind (RNIB) told us:

Blind and partially sighted pedestrian 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.

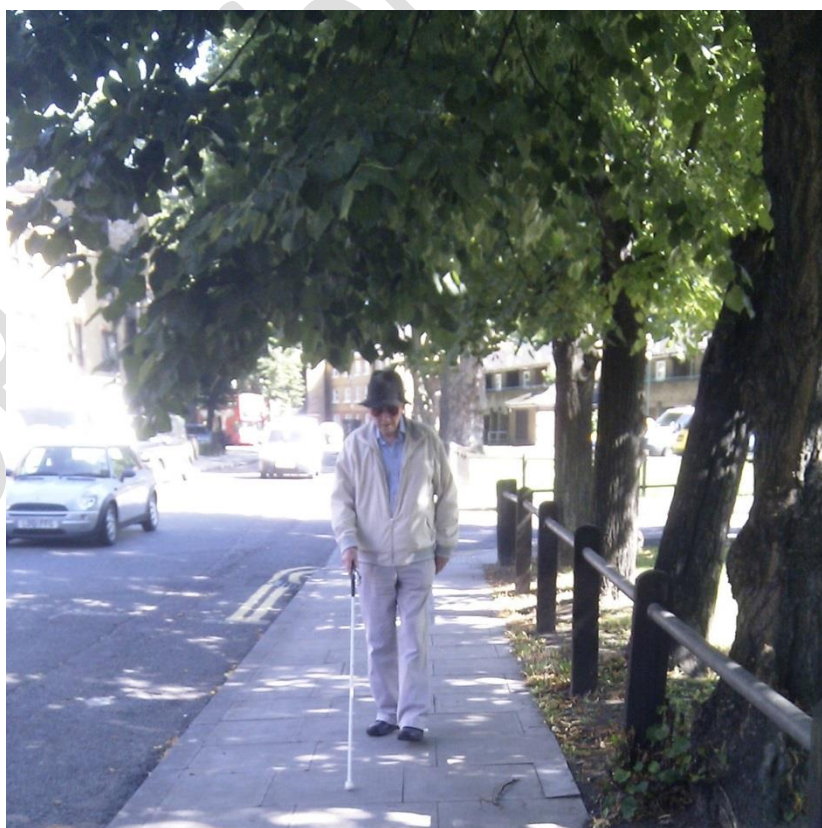


Figure 1 For the blind these obstructions are not just a nuisance.

The law is clear. The purpose of the highway is for passing and re-passing, without let or hindrance. It is unlawful to obstruct the pavement without lawful authority or excuse and it is the duty of a local highway authority to keep the pavement clear. Almost all outdoor advertisements, on the public highway, need the 'express' consent of the local planning authority and the permission of the highway authority.

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 pavements, indeed they have become the defenders of obstruction of their pavements.

The weakness of the law is that there is no machinery, in any practicable sense, for the user to enforce the performance of these duties. Many highway authorities do little or nothing to comply with their legal duty. The user 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 the inaction of highways authorities is a cluttered, unattractive street environment that discourages walking and reduces the accessibility of London's streets. London's disabled lobby and those they represent remain dissatisfied.

1 Introduction

Maintaining clear and accessible pavements is a mainstream pedestrian issue. It has particular importance to elderly, visually and mobility impaired users. Their representative bodies: 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 research¹ looking at the interchange requirements of passengers both 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 traders, often advertising boards, but also pallets, milk trolleys, large commercial bins and the like.

London TravelWatch undertook research,² in partnership with *Transport for All*,³ 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 *Royal National Institute for the Blind (RNIB)*, has reinforced our view that the issue of pavement obstructions is an important one for all pedestrians and particularly for elderly, mobility and sight impaired Londoners.

The photograph below illustrates the issue. For sighted able bodied pedestrians these obstructions are problematic, for the elderly; visually and mobility impaired 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. Transport for London has a legal duty to remove these obstructions, Islington could remove them if they chose to.

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 apply the law. Finally we set out recommendations to deal with obstructions on London's pavements.

¹ Walking and Interchange in London: <http://www.londontravelwatch.org.uk/document/14197>

² Will everyone get to the Games:

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

³ Transport for All is a London wide third sector organisation representing the views of elderly and disabled transport users.



Figure 2 Upper Street, Islington. A Transport for London controlled street within the London Borough of Islington.

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*⁴ 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.⁵ The guidance recommends a staged approach to improvement. The first stage being to "tidy up". The two images and caption below is taken from the guidance and demonstrates the approach.

Existing



Tidy up



Figure 2 "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. TfL's controlled streets are as cluttered as many others in London, sometimes more so.

In London there are 39,000 registered blind or partially sighted residents. There are more 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 to us or

⁴ Towards a fine city for people: http://www.gehlarchitects.dk/files/pdf/London_small.pdf, Gehl Architects

⁵ Urban Design London: Five Stages of Improvement <http://urbandesign.tfl.gov.uk/Design-Guidance/Better-Streets/BetterStreets/FiveStages.aspx>

taken from reports from some of the organisations representing elderly; mobility and impaired users.

Guide Dogs

The Guide Dogs organisation has undertaken a survey of UK high streets and described what they found⁶ as a “cluttered **nightmare**” for the users they represent. Camden was held to be the worst town in the UK for clutter. The 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.

London Age UK

London Age UK, in their pre-2012 mayoral election, *Older People’s Manifesto*,⁷ called on a future Mayor to tackle pavement clutter. They told us:

“In our recent London ‘Older People’s Manifesto 2012-2016’ we highlighted the issue 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.”

Hackney Age UK

Hackney’s Age UK, working with local group Disability Back-Up has conducted research amongst elderly and disabled residents locally⁸ 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.’

⁶ 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/>

⁷ 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>

⁸ 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 for the Blind

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 report⁹ 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.”

Transport for All

Transport for All is a pan London organisation that advocate and work for better transport on behalf of elderly 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.”

⁹ 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

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-passing¹⁰ 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 offence¹¹.
- 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 fine¹²
 - 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...¹³
- iv) No advertisement may be displayed without consent granted by the local planning authority (and with permission from the highway authority) [Note there are some exemptions to this, but none applies to commercial advertising on the public highway]¹⁴.
- v) 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 equality¹⁵

The role of local highway authority is also clear.

- vi) It is the duty of the highway authority¹⁶ 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 they are not the highway authority and so a borough may take action against highways obstructions on a TfL controlled road.

¹⁰ Established common law

¹¹ Highways Act 1980, section 137

¹² Highways Act 1980, section 148

¹³ Highways Act 1980, section 149

¹⁴ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

¹⁵ Highways Act 1980, Section 175

¹⁶ Highways Act 1980, section 130

- vii) It is the duty¹⁷ 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. 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:

The placing of street advertising boards ('A' boards) on the public highway is unlawful¹⁸

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 proposing 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.**

Transport for London have stated that advertising boards are not licensable (Appendix 1). Steven Sauvain QC in his *Highway Law (4th Ed) at paragraph 12-111* confirms this.

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-minimus that can be applied. The case of a newsagents 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 told us at a conference we attended that case law means that de-minimus really does mean de-minimus.

The law provides the means of enforcement for highways authorities to deal with advertising boards:

¹⁷ Highways Act 1980, section

¹⁸ The Royal Borough of Kingston upon Thames, Policy Statement on 'A' boards

- i) the Highways Act 1980 enables councils to issue enforcement notices and ultimately prosecute a frontage 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 highway¹⁹
- 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.

However, though all local authorities have powers to clear obstructions there is no mechanism to force them to do so. The use 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 legally challenged. Some cite the de-minimus 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 highway²⁰ 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 an excuse for the highway authority that have a duty to assert and protect the rights of the public.

¹⁹ London Local Authorities and Transport for London Act 2003

²⁰ Advice to members of the Royal Borough of Kensington and Chelsea

4 How local highway authorities are fulfilling their

Highways Act duties.

In 2001 Transport for London (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 the London local authorities and Transport for London gained powers, following their promotion of a bill through Parliament²¹ to enable them to more efficiently enforce against unlawful highway obstructions.

In 2004 TfL and the Central London Partnership [a local authority and business partnership] 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 study²² 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 guidance²³ that encouraged the removal of "illegal A-boards". The London Plan followed and TfL responded to it²⁴ 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. Still too many of London's pavements remain cluttered. They remain an obstacle course for all Londoners and a hazard to elderly; mobility and visually impaired Londoners.

²¹ The London Local Authorities and Transport for London Act 2003

²² Towards a fine city for people, Jan Gehl Architects

²³ Better Streets, Mayor of London. Urban Design London: Five Stages of Improvement

²⁴ TfL, Taking forward the Mayor's Transport Strategy Accessibility Implementation Plan

As part of the research undertaken to produce this report we have 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 where they apply zero tolerance of obstructions, most tolerate obstruction of their footways [and even licence obstructions or otherwise seek to legitimise them]. Most claim to undertake some enforcement. There is a further group that simply advise frontages and undertake no enforcement. A summary is provided as Appendix 2.

One gets the sense that many of London's local authorities, instead of acknowledging their legal duty to keep the pavements clear of obstructions and "to assert and protect the rights of the public", see their role as asserting the rights of traders to obstruct the pavement. Many regard advertising on the pavement as legitimate as long as there is a way through for pedestrians, sometimes reducing to just over a metre. Havering's approach is "one of advice rather than enforcement" with the results seen below."



Figure 3 Romford. Less inviting 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 4 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 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.

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 high 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.

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. It is not known if they have achieved compliance with this policy.

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

A handful of highway authorities operate a zero tolerance policy on a selection of their streets. 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 stated and 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 keep clear of obstructions on a zero tolerance basis. However, on the majority of TfL's streets they have reached an accommodation with frontages that allows obstruction of the pavement, though. They have devised rules about the location of A-boards, the number per frontage etc. Following engagement on this issue with London TravelWatch 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, they are very slow to respond to complaints and often just relocate the obstruction rather than have it removed. They tell us that the process of enforcement is 'resource hungry' and that they take a pragmatic approach.

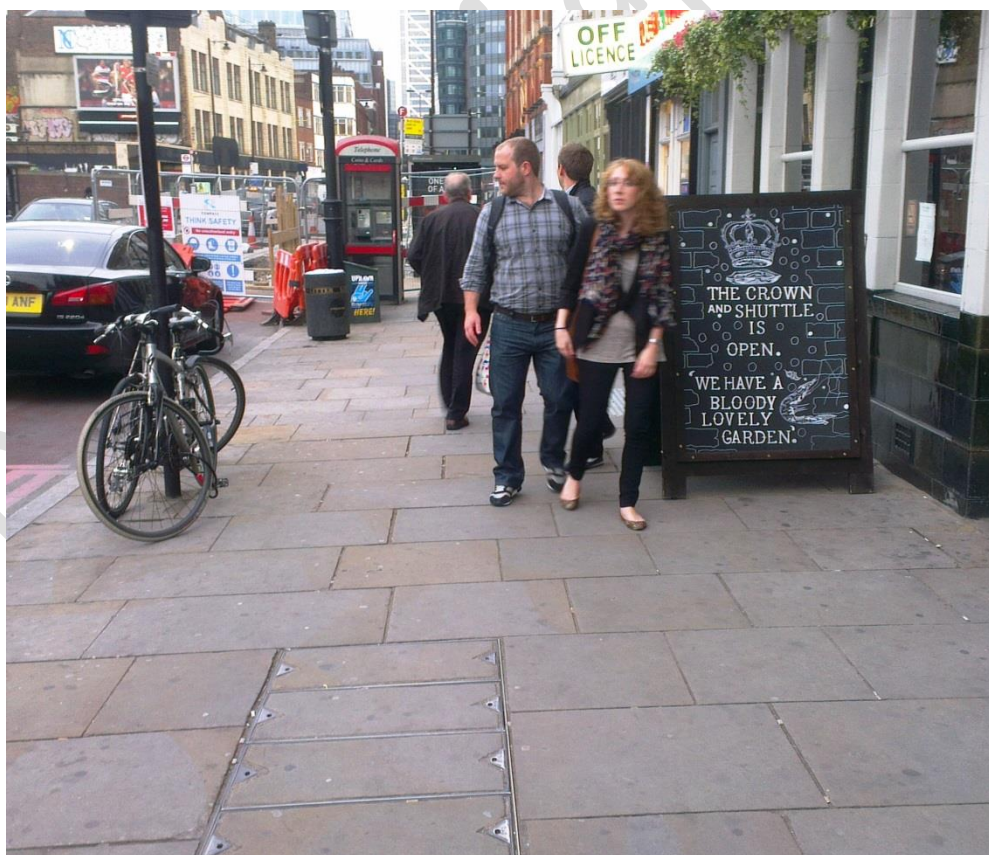


Figure 5 TfL judged this 4" 6' wide board not to be an obstruction as it was not on a specified road and the pavement was wide.

Many of the other boroughs have policies that allow unlawful obstruction of the public highway. 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.

The legal advice the City Of London has given its cleansing officers seems typical of the position of many authorities. They have misinterpreted case law that recognises the de-minimus principle to mean they can do as they please, whereas Counsel's advice is "de-minimus really does mean de-minimus"

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, although it is public highway. 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 policy of individual borough suggests. It is apparent that there is less pro-active enforcement than there should be. Boards can be located against the premises, next to the kerb or in the middle of the pavement. The RNIB talk of an arms race as traders push the boundaries of what the local authority might permit or flagrantly ignore the rules to limit the number of boards.

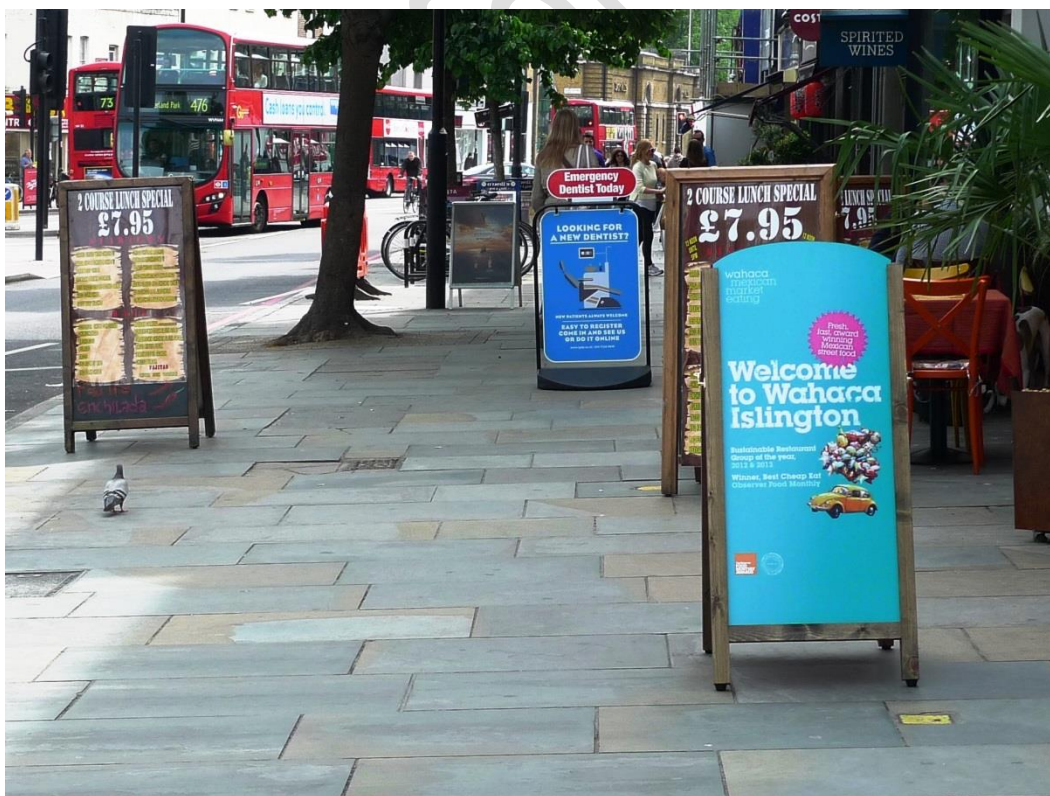


Figure 6 The A1, Upper Street. The policy is for one board adjacent to the property wall.

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

Contact details for London's highways authorities where highway obstructions can be reported is appended as Appendix 4

DRAFT for approval

5 Discussion and Conclusions

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. It is widely accepted that the de-cluttering London's streets will benefit all pedestrians and particularly elderly; visual and mobility impaired users for whom pavement obstructions can also be a hazard. All of the major campaigning charities representing elderly; 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 consider more carefully the location of essential street furniture that they introduce.

London's pavements are primarily for walking. The law is clear that there needs to be good reason to obstruct the pavement. Advertising controls require virtually all posters (including free-standing advertising boards) to have consent from the local planning and highways authority.

Obstruction of the public highway is allowed in some circumstances. Building works have to happen and therefore scaffolding is allowed, frontages must receive goods and there is public benefit derived from the siting of bus shelters etc. Tables and chairs can be licensed outside shops and street trading is licensable. However, the placing of advertising boards on the pavement creates an unlawful obstruction to pedestrians. Local highway authorities have the necessary powers to keep their pavements clear of obstruction.

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. They are not fulfilling their Highways Act duties. Unfortunately the users of London's pavements cannot, in any practical 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.

If all local authorities undertook their duty to keep their pavements clear of obstructions, in the manner that the Royal Borough of Kingston upon Thames do, London's streets would be much clearer for all. There would be a step change in the accessibility of London's streets.

Appendix 1

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

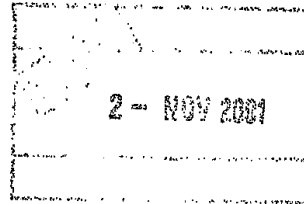
31 October 2001

vs/ please speak
RB/s/h



Direct line : 020 7941 4070
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Rufus Barnes
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Clements House
14 - 18 Gresham Street
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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).

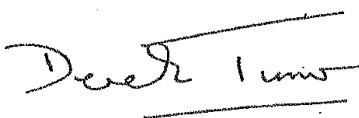
This is in line with the Mayor's Transport Strategy, which included as a priority, the removal of inappropriate and unauthorised obstructions on pavements. As I am sure you are aware, these items often cause inconvenience to pedestrians, and can be a safety hazard for people with poor eyesight, those 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.

	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?	viii) How many officers (full time equivalent) 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	Officers offer informal advice	No	N/A	Not available	None	Both patrolling and reactive response.	Four highway officers.	
London Borough of Barnet	Zero tolerance of A-Boards and most other obstructions.	No. Barnet uses 17(1) if the London Local Authorities Act 2003	N/A	63	Five warning notices, 38 A-board removal notices	Both patrolling and reactive response. Part of duties of enforcement officers.	Six Priority Intervention Officers.	
London Borough of Bexley	Licenses A-Boards, requires 1.3 meters unobstructed footway.	Adopted policy March 2011	We have a copy.	Three complaints this year	No enforcement was undertaken.	Frequent inspections and responds to complaints.	Half a post	
London Borough of Brent	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	Zero tolerance in pedestrianised area of town centre. Elsewhere they allow boards abutting building if there is a 2 meter for pedestrians.	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	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 prosecute.

City of London	One board per business allowed against the building leaving a minimum of 1.83 meters.	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	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 1st warning letters, 3 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	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	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.	

London Borough of Enfield	Enfield recognises that any obstruction is actionable subject to a de-minimus 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	1 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	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	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 proactive enforcement.	No response.	
London Borough of Hammersmith and Fulham	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 six officers that have this activity as part of their duties.	
London Borough of Haringey	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 meters. 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	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 eight officers that undertake this activity.	

London Borough of Havering	Havering carries out limited enforcement. Its primary approach is more one of advice than enforcement. However it is presently seeking to legitimize A boards using the London Local Authorities Act 1990	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.	
London Borough of Hillingdon	Recognises needs of traders and problems of visual appearance and obstruction.	No formal policy, but had guidance. One per customer entrance. Allows if there is two meters 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	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.	Four 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	Islington license A-boards. Location is by agreement and there must be 1.8 meters 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 web site.	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	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	1500 complaints relating to obstructions.	148 FPNs. Two cases considered by legal team	Very pro-active. One officer per ward.	22 officers have this as part of their duties.	

Royal Borough of Kingston upon Thames	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 2000 visits to 500 businesses. A system of warning letters with the threat of removal is the enforcement system that is used.
Royal Borough of Lambeth	Lambeth requires 1.8 meters 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	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 FPN's have been issued.	Highway officer role, but generally rely on complaints	Not stated.	
London Borough of Merton	Highway inspector negotiates with owner or removes if width is not adequate.	No written policy	N/A	320 including responses to routine inspections.	Six 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.	
London Borough of Newham	Is pro-active in dealing with highway obstructions. The primary enforcement approach is the issuing of fixed penalty notices.	Unclear.		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	Do not enforce against a small A-board on a wide footway. Describes this as de-minimus.	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	Policy allows A- boards generally adjacent to the building if there is 1.5 meters 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	1000 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.	Six officers do a mixture of highway enforcement duties.	Richmond is considering the use of FPNs.
London Borough of Southwark	Southwark 'license' A- boards. Main concerns safety. Require minimum width of 1.2 meters. 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.	Six officers undertake this activity as part of their work.	
London Borough of Sutton	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.	

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<p>Transport for London</p>	<p>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 one board per premises, appropriately sited.</p>	<p>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.</p>	<p>The Surface Transport Panel paper refers to guidance. This has been requested.</p>	<p>405</p>	<p>512 informal enforcement actions, 168, notices issued, One prosecution.</p>	<p>Pro-active enforcement is undertaken prioritising the zero tolerance streets.</p>	<p>There are 28 officers whose roles include this enforcement activity.</p>	<p>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</p>
<p>London Borough of Tower Hamlets</p>	<p>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.</p>	<p>None</p>	<p>N/A</p>	<p>58</p>	<p>15</p>	<p>Do not undertake specific patrols for highways obstruction, but the authority does have streets officers who deal with this issue.</p>	<p>Unclear</p>	

<p>London Borough of Waltham Forest</p>	<p>Have an A-Board policy which, subject to numerous criteria allows boards at the back of footway allowing 1.8 meters. Not allowed on tactiles or within 10 meters of a pedestrian crossing.</p>	<p>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.</p>	<p>Yes. We have a copy of the policy.</p>	<p>397</p>	<p>587 notices, 288 FPNs, 1 prosecution</p>	<p>Officers undertake both reactive and pro-active enforcement.</p>	<p>19 officers conduct this work as part of enforcement activities.</p>	<p>Waltham Forest is concerned about the proliferation of cabinets on the footway that are getting permission under telecoms legislation.</p>
<p>London Borough of Wandsworth</p>	<p>There has been a lot of consideration of this issue by Wandsworth. This has concluded two buggy widths, 2 meters is acceptable. Board must be against wall or in a private forecourt area.</p>	<p>Yes, 2009</p>	<p>We have a copy of Wandsworth's protocol.</p>	<p>Six</p>	<p>Nil</p>	<p>Pro-active and reactive enforcement.</p>	<p>Nil</p>	

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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

K&C

Westminster

Southwark

In Progress

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
K&C
Hackney
Islington
Lambeth
Southwark
Wandsworth
Wandsworth

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Appendix 4

Borough Complaints pages

The following are the various website pages of the London boroughs that can be used to complain about highway obstructions.

Barking and Dagenham

General email: 3000direct@lbbd.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=CUSCENTRE&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

<http://www.cityoflondon.gov.uk/faultreporting/enterLocation.aspx?xfltGuid=E7DD2F00-331D-44B1-8939-8CC94D5FB8FB&type=csr>

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=F4KwicNLRNw>

Hillingdon

Can't find

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

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=N eKWTBtXUU1>

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/SMCPPage2.cfm>