

Advertising Board Policy and Guidance

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Contents

1	Introduction.....	4
2	Background.....	4
3	Key Requirements	5
4	Safety Considerations.....	6
5	Enforcement Action	6
6	Legislation	6
7	The Storing and Disclosure of Information.....	7
8	Complaints and Appeals.....	7
9	Monitoring and Review	7
10	Amendments to this Policy	7
	Appendix A - Advertising Board Guidance.....	8
	Appendix B – Mandatory Conditions	12
	Appendix C – Requirements of “A” Boards	13
	Appendix D – Amendment Document.....	15

1 Introduction

This Advertising Board (“A” Board) policy seeks to strike a balance between encouraging a vibrant economy and ensuring that areas are not subject to “street clutter”. Harrow Council as the Highways Authority can determine which structures or objects are placed in the highway. The ad hoc placing of portable “A” Boards on the highway may cause difficulties for the elderly, people with visual or mobility impairments, or young children in pushchairs. The wilful obstruction of the footpath/footway may in certain circumstances be regarded as an offence under the Highways Act 1980. However, some businesses see structures/objects particularly those used for the purpose of producing income or advertising, as central to their operation and resist removal.

As the Highway Authority, the Council has a statutory duty to assert and protect the rights of the public to use and enjoy the highway. The Council recognises that portable advertising boards placed in the highway may be a useful tool for businesses but this needs to be balanced against the issues they may present for members of the public. This policy and supporting guidance aims to clarify how that balance will be achieved. The policy also seeks to ensure that advertising boards placed in the highway are managed correctly and operated in a way that benefits local businesses and does not cause a problem for highway users.

This policy also supports the wider council’s objectives as set out in its Local Transport Plan (2011, as revised in 2014), to improve the pedestrian environment and encourage walking as a more sustainable and healthy form of travel. It is in line with the objective of the Mayor’s Transport Strategy 2010 to make it easier for cyclists, pedestrians and disabled people to get about. It also links to the work of Transport for London (TfL), who has set itself a priority for the removal of unauthorised obstruction from its roads, as such items can cause inconvenience to pedestrians and users of the highway and can present a hazard.

This policy should be read and used in conjunction with the Advertising Board guidance attached as **Appendix A**.

2 Background

The scope of this policy relates to structures/objects placed outside business premises on footways/footpaths, the purpose for which is intended to result in the production of income, or be for advice, information or advertisement purposes. It does not apply to portable objects or structures on private property or within a shopping centre.

This policy sets out what is considered acceptable in respect of those structures or objects (referred to in this document as “A” or “advertising” Boards). It also sets out the council’s enforcement policy to deal with breaches of highways law in respect of “A” Boards.

Authorised “A” Boards placed on the highway remain the responsibility of the business owner and businesses should have a minimum of £5m public liability insurance in place.

3 Key Requirements

The advertisement attached to the structure/object should be no larger than a standard A1 size (*637 (width) x 1100 (height) x 800 (depth) mm*) and may be single or double sided. A rotating object or structure is not permitted. The advertising board should be of sufficient weight or design so as to prevent it being blown over in the wind and should be portable so that it may be removed or re-sited as required.

A minimum of 2 metres unobstructed footway width must be maintained. In exceptional circumstances, with the agreement of the council a minimum clearance of 1.8 metres may be considered.

If a business has its own private forecourt adjacent to the footpath/footway, the advertising board should be placed fully within the confines of the forecourt.

Only one advertising board per business will be permitted to be used in the footpath/footway fronting the business premises. Advertising boards will not be permitted in a conservation area except with the prior consent of the Local Planning Authority.

The advertising board should not:

- Obstruct access to bus stops, taxi ranks or other frontagers¹
- Obstruct access to any statutory undertaker's service covers or apparatus
- Be placed on or [near to] tactile paving or dropped kerbs
- Obscure the visibility of highway users on or near a junction
- Obstruct any traffic signs or road markings

All "A" Boards are required to be portable in their nature so that they can be easily moved from the footpath/footway (e.g. require no excavation to install or remove) The advertising board should be kept clean and tidy, in good condition and appear professionally made with no content likely to cause offence. The "A" Boards must not damage the highway and must be stable and not easily blown over. The approved "A" Board remains the responsibility of the business owner when placed on the highway and the Owner will be required to indemnify the Council against any claim for injury damage or loss arising out of the grant of any permission to use the "A" Board in the highway. All "A" Boards must be removed from the footpath/footway at the end of the days trading.

Any "A" Boards must relate to the normal business of the trading establishment. Where multiple occupancy premises share joint accesses, only one "A" board will be permitted per frontage. The Council may require the immediate removal of any "A" Board if required by a Police Officer/Police Community Support Officer or with other reasonable cause including the need for access to maintain the highway in the vicinity of the "A" Board.

It is not permitted to affix/chain an "A" Board to any bollard or piece of street furniture. Placing "A" Boards in sensitive areas such as conservation areas can be unacceptable because of the adverse impact that the proliferation of such displays can have on visual amenity. Where appropriate, the Local Planning Authority may consider using its powers under relevant legislation to secure their removal in such areas. No electrical supply or illumination will be considered on the Highway.

¹ A frontager is defined as "the owners and occupiers of any premises adjoining the part of a highway on, in or over which an object or structure would be placed or on which facilities for recreation or refreshment or both have been, are being or would be provided" (S115A(7) Highways Act 1980)

If within a short distance a proliferation of advertising boards result in the general public finding it difficult to navigate the highway, then all owners will be asked to remove the boards until agreement can be reached.

Nothing in this policy absolves those concerned from their legal responsibilities under the Highways Act 1980 and other legislation.

4 Safety Considerations

The impact of an "A" Board on public safety will depend on the nature of the "A" Board and its location. The "A" Board should not be so distracting or confusing as to endanger the general public who are taking reasonable care for their own and others safety.

An "A" Board is considered a hazard if any of the following apply:

- It obstructs visibility
- Its content or appearance is likely to distract the attention for a period of sufficient duration to endanger the viewer
- It creates glare and dazzles a viewer
- It obstructs, overshadows or distracts the attention away from the highway, signs, signals or beacons

5 Enforcement Action

Action may be taken by the Council in appropriate situations under the powers available to it under the Highways Act 1980 and any relevant planning legislation.

Where any required steps to remedy a breach are not taken then the Council may take those steps themselves including the removal of the "A" Board from the highway. "A" Boards removed from the highway will be stored for 3 months after which time they will be disposed of. The council will seek to recover all expenses.

6 Legislation

This policy only relates to enforcement and removal from the highway, other powers within the council via planning enforcement, development control, conservation and existing by-laws remain unaffected.

Planning permission is required for portable "A" Boards bigger than 0.3sqm which are not exempted by or benefit from deemed consent (e.g. stand in the forecourt of a business premises rather than in the highway). As part of the planning permission process the Council as LPA will consider the effect of the sign on amenity and public safety.

The Highway Authority may grant permission to a 'frontager with an interest' to use an object or structure in the highway for the purpose which will result in the production of income, provide a centre for advice or information, or for the purposes of advertising (s115E(b) HA 1980)

A frontager is defined as "the owners and occupiers of any premises adjoining the part of a highway on, in or over which an object or structure would be placed or on which facilities for recreation or refreshment or both have been, are being or would be provided; but frontagers have an interest ...only in proposals to place objects or structures or provide or operate facilities wholly or partly between their premises and the centre of the highway" (S115A (7) HA 1980).

7 The Storing and Disclosure of Information

Information collected or recorded as part of the council's enforcement activities will be securely retained in a paper and/or electronic format for a period defined by legislation or required for future reference by the service. This information will include decisions taken about the choice of enforcement options.

The identity of a person providing the council with information about other people committing crime, will remain confidential unless prior agreement by the person is obtained, or its disclosure is authorised by law or by a court of law.

Personal data held manually or as computer records will be handled in accordance with the Data Protection Act 1998 (DPA). This information will be used in accordance with the council's DPA registration. Exemptions to this include where information is disclosed to other agencies or used for another reason for the purposes of detecting or preventing crime. This will include the sharing of information between council services and with the police and other enforcement agencies. Sharing of information relating to the Crime and Disorder Act will be undertaken in accordance with the appropriate information sharing protocol.

Right of access to information held by the council will be given on request, in accordance with the Freedom of Information Act 2000 and Environmental Information Regulations 2004 unless the information is already publicly available (as described in the Council's Publication Scheme). Some exemptions to the council can be found in the Act, Regulations and the council's publication scheme.

8 Complaints and Appeals

Anyone who is dissatisfied with an Officer's actions may make a complaint which will be managed in accordance with the Council's Corporate Complaints and Compliments Policy and procedure

9 Monitoring and Review

This policy will be reviewed within two years of its implementation. The review will highlight successes as well as areas for improvement. Reviews will also seek to introduce where necessary any new powers granted to local authorities. The review will include measures such as:

- Number of requests for "A" Boards to be placed on the highway
- Reduction in the number of "A" Boards obstructing the highway
- Review of complaints statistics

10 Amendments to this Policy

As may be necessary, for instance with the issuing of new guidance by Government, amendments will be made to this Policy. Should such amendments not deviate away from the overall spirit, such amendments will be attached through an amendment document (**Appendix D**) rather than the re-issuing of the Policy as a whole.

Any matters of legal doubt will be assessed by the Council's Legal Department, prior to coming into place, where there is no clear-cut guidance, case law or precedent.

Appendix A - Advertising Board Guidance

What is the aim of this guidance?

The aim of this guidance is to explain where a portable “A” Board may be placed on a footway/footpath so they don’t cause an unnecessary obstacle to the safe use of the footway/footpath.

What will not be permitted

The following structures are not permitted:

- Rotating or swinging “A” Boards
- More than one “A” Board per business
- Illuminated/Powered “A” Boards or with amplified speakers
- “A” Boards required to be affixed to a footway/footpath or to street furniture
- “A” Boards that cannot be removed by hand or require mechanical assistance to remove

Why do I have to obtain permission?

- For any object/structure to be placed on the footway it is a legal requirement of s115 of the Highways Act 1980 that the appropriate permission be obtained from the Council.
- If permission is granted, an “A” Board permit will be issued which will contain the conditions of using the “A” Board on the footway/footpath.

How do I apply for permission?

The council has produced an application form which you need to complete and submit. The form requires you to assess where the “A” Board may be used on a footway/footpath and to provide information to enable the council to consider the application. It is important that you read this guidance carefully before you complete the application form. The application process is outlined at the end of this document.

Where can I place an “A” Board?

Assessing where an “A” Board may be placed on a footpath/footway is a critical part of an application. You must ensure there will be a minimum 2 metre free and unobstructed clearance of footway/footpath around the “A” Board at all times. This minimum clearance of 2 metres cannot be reduced as it is the minimum width of highway desired to enable wheelchairs and pushchairs to pass safely. “A” Boards can only be located on footways/footpaths within the frontage of your building. They cannot be located away from your business, at the end of the street or on the opposite side of the road. Placing “A” Boards in sensitive areas, such as conservation areas or close to listed buildings may require the consent of the LPA. Where multiple business occupancy premises share joint access, only one “A” Board will be permitted per building frontage.

“A” Boards may be located at:

- Against the exterior of the business applying for the licence
- Within any part of a private forecourt, but must be fully within it

“A” Boards must not be located:

- In the middle of a footway/footpath
- Within 500mm of the kerb face
- Affixed to or on existing street furniture
- On a carriageway
- Adjacent to a building’s emergency exit
- Outside other business premises

If the footway/footpath fronting your business cannot accommodate the “A” Board and the 2 metres unobstructed clearance (e.g. the footway is too narrow, street furniture) then the Council is unable to grant a permit. However if you contact the council we will discuss with you what other possible alternative options may be available.

It is important to note that you are responsible for locating where the “A” Board should be placed. You need to measure and assess the footway/footpath in front of your business and when you think you have selected a suitable location mark this on the application form plan.

Compliance and Enforcement

Once permission is granted, the “A” Board is required to be maintained in accordance with this guidance together with any permission conditions. The Council reserves the right to take enforcement action where compliance is not achieved. “A” Boards placed on the footway/footpath without permission will be removed by the Council in accordance with relevant legislation. Council officers will regularly inspect “A” Boards to ensure that the terms of any permission and any conditions are being complied with in full. If it is found that a person is not complying with the conditions of the permission then the council may withdraw permission for the “A” Board to be placed on the footpath/footway.

If the “A” Board is not managed in accordance with the permission and these guidelines, the permit holder will receive a verbal warning in the first instance from an authorised council officer. Following this, should the Council be required to revisit the permit holder to reinforce compliance, the permit holder will receive a written notification requiring him/her/it to take such steps to remedy the breach within a specified timeframe. Should the permit holder fail to comply with the notice then the Council may take the specified steps themselves and recover any expenses from the person upon whom the notice has been served. Please note the history of a businesses management of a structure/object will form part of the consideration to issue a new permit, or renewal of permission.

Making an application

Once you have read the guidance and assessed where an “A” Board can be placed, you need to complete the application form and submit it to the council together with payment. **It is important that you provide all necessary information.** Once we have received an application, it will be assessed to ensure the guidance criteria have been met. If that is the case, we shall issue you a notice of an intention to grant a permission which you must display in such a position (e.g. shop window) that it can be viewed by the public for 28 days. This is because the legislation requires that the public receives prior notification and that, if they have reason, they can make representations to the Council regarding the proposed placing of the “A” Board on the highway. Following this 28 day period, if no representations have been received the permission will be granted. A permit will be issued and you may place the “A” Board on the footway at the approved location. However, if representations are received during the 28 day notification period these representations together with the application, will be assessed by members who will determine whether or not to grant permission. Further details are available upon request.

How long does a permit last?

Every “A” Board permit will last for one year from the date of the end of the notification period. This will be recorded on the permission itself. You should apply for renewal no later than 10 weeks before the permission expires.

Management of “A” Boards

Once an “A” Board permit has been granted, it is the responsibility of the permit holder to ensure the “A” Board is managed in accordance with the conditions of the permission and these guidelines. The permit holder is wholly responsible to ensure that the “A” Board is located at the approved location and must ensure it is inspected and maintained on a regular basis. This must be conveyed to the staff that will place and remove the “A” Board. “A” Boards may only be placed in the position as detailed on the application form plan and approved by the Permission. Moving it to an alternative location is not authorised by the permission. If the “A” Board, for whatever reason, is moved from the approved location, it must be returned to its approved position. The “A” Board must conform to the specification within this guidance and as detailed in the application form. The “A” Board must not be left on the footway/footpath outside the opening times of the business it serves. The “A” Board must not be left on the footway/footpath after 21:00 hours. “A” Boards which become damaged must be removed and repaired or renewed. “A” Boards may not carry any other structure or object.

Conditions of an “A” Board Permit

The permission takes the form of a permit which, when issued, must be displayed in a prominent position and be visible for inspection by authorised council officers. The permission will contain a number of conditions and requirements, examples of which are:

- The permit holder shall carry public liability insurance and will indemnify the council against any claims that may arise in respect of injury, damage or loss arising out of the grant of permission.
- The permit will limit the hours of permission to business operating hours but not between the hours of 21:00 hours and 06:00 hours.

- Outside the permitted hours of operation the “A” Board must be removed from the highway and stored in the business premises.

Appendix B outlines the key conditions relating to advertising boards, and Appendix C outlines the requirements of “A” Boards

Please note: The “A” Board permission and management guidance is not exhaustive and any application may be assessed against additional criteria depending on the nature of the “A” Board, location or other matters the Council considers pertinent. In addition the Council reserves the right to condition any permission granted as it deems appropriate for any individual permit application.

Fees

The council’s basic fee for granting permission for an “A” Board is currently set at £50 for a one year permit period. Please note this figure is subject to annual review and you should check the current fee before making any payment.

“A” Board application process

- Applicant obtains policy, guidance and application form
- Applicant completes application form based on information contained in the guidance
- Applicant submits to the council the application form and fee
- The Council assesses the application – Note: If the application is incomplete or does not contain the required information, the form will be returned and will not be assessed until it is resubmitted with the form completed correctly.
- Following assessment and if the application meets the required criteria, a notice will be issued to the applicant who must display and maintain it for a period of no less than 28 days in a prominent position e.g. window, fronting the proposed “A” Board location – Please note it is important this notice stays in position for 28 days. Failure to comply will invalidate the process.
- If no representations are received, “A” Board permission will be issued.
- If representations are received, the Portfolio Holder shall assess the objections and make a decision whether to issue the permit or refuse.
- Upon completion of the one year permission, the applicant must reapply for a new permit following this process.

Appendix B – Mandatory Conditions

The permit holder will be subject to the following conditions as part of the permit provision:

1. The advertising board must not be erected or positioned in such a manner as to:
 - impede the safe passage of vehicles, cyclists or pedestrians along the public highway (i.e. clusters of advertising boards)
 - prevent access to bus stops, taxi ranks or other frontages
 - cover any signs or markings relevant to the highway
 - obscure any signs, especially on or near junctions
 - obscure the visibility of highway users on or near junctions
 - prevent access to any statutory undertaker's service covers or apparatus
 - be placed on or near to tactile paving and dropped kerbs (used for access)
 - be permanent fixtures or involve excavation of, or fixing / attaching to, the highway, which must be left entirely undisturbed.
2. The board must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.
3. The advertising board must relate to the trade of the premises and as a guide be placed along the front width of the retail outlet. The equipment must be fit for purpose and cause no potential hazard, nuisance or obstruction.
4. Advertising boards in certain areas may be unacceptable, such as conservation areas because of the adverse impact that a proliferation of such displays can have upon a visual amenity or if a conflict with planning policy or guidance exists.
5. Sufficient public liability insurance must be in place of at least £5 million. The council will require proof of this, and a copy or information confirming the name of insurer, policy number, expiry date and amount of cover (minimum £5 million) should be provided upon request.
6. The council's decision is final regarding the positioning of "A" Boards on the highway.

Please remember that Harrow Council will enforce to remove hazards or obstructions to maintain safe passage for pedestrians.

Appendix C – Requirements of “A” Boards

1. The advertisement attached to the structure / object should be no larger than a standard A1 size (637(width) x 1100 (height) x 800 (depth)(mm)) and may be single or double sided
2. The advertising board should be of sufficient weight or design so as to prevent it being blown over in the wind and should be portable so that it may be removed or re-sited as required.
3. A minimum of 2 metres unobstructed footway width must be maintained. In exceptional circumstances, with the agreement of the council a minimum clearance of 1.8 metres may be considered.
4. The A Board must be placed against the exterior of the business at all times, and is not permitted to be positioned away from the business, including at the end of the street, outside another business or in the middle of the footway/footpath
5. If a business has its own private forecourt adjacent to the footpath/footway, the advertising board should be placed fully within the confines of the forecourt.
6. Only one advertising board per business will be permitted to be used in the footpath/footway fronting the business premises. Advertising boards will not be permitted in a conservation area except with the prior consent of the Local Planning Authority.
7. The advertising board should not:
 - Obstruct access to bus stops, taxi ranks or other frontagers²
 - Obstruct access to any statutory undertaker's service covers or apparatus
 - Be placed on or [near to] tactile paving or dropped kerbs
 - Obscure the visibility of highway users on or near a junction
 - Obstruct any traffic signs or road markings
8. The advertising board should be kept clean and tidy, in good condition and appear professionally made with no content likely to cause offence.

² A frontager is defined as “the owners and occupiers of any premises adjoining the part of a highway on, in or over which an object or structure would be placed or on which facilities for recreation or refreshment or both have been, are being or would be provided” (S115A(7) Highways Act 1980)

9. The approved "A" Board remains the responsibility of the business owner when placed on the highway and the Owner will be required to indemnify the Council against any claim for injury damage or loss arising out of the grant of any permission to use the "A" Board in the highway.
10. All "A" Boards must be removed from the footpath/footway at the end of the day's trading.
11. Any "A" Boards must relate to the normal business of the trading establishment.
12. Where multiple occupancy premises share joint accesses, only one "A" board will be permitted per frontage.
13. The Council may require the immediate removal of any "A" Board if required by a Police Officer/Police Community Support Officer or with other reasonable cause including the need for access to maintain the highway in the vicinity of the "A" Board.

Appendix D – Amendment Document

Any changes, in line with Section 18 of the Street Trading Policy, shall be recorded below. Such changes shall be in line with the spirit of the policy, and not require the policy to obtain approval.

August 2016

Directorate information update to Community Directorate

Addition of Appendix C – Requirements of “A” Boards, in line with the Policy Guidance

Addition of Appendix D – Amendment Document

Guidance Location of "A" Boards updated to reflect allowed positions