

Date: 25 February 2016

Item: Tackling Unlawful Highway Obstructions

This paper will be considered in public.

1 Summary

- 1.1 The purpose of this paper is to update the Panel on the enforcement and engagement activity being undertaken as part of 'Operation Clearway' in relation to free-standing advertising boards ('A' Boards) as well as other unlawful highway obstructions.

2 Recommendation

- 2.1 The Panel is asked to note the paper and the new problem-solving approach to improving compliance on the Transport for London Road Network.**

3 Background

- 3.1 Freestanding 'A' Board signs constitute an unlawful obstruction, nuisance and a potential danger to public safety. They interfere with the movement of pedestrians, particularly older people, or those with visual or mobility impairment issues.
- 3.2 On 11 February 2015, the Panel considered a paper outlining TfL's approach to enhancing enforcement activity against unauthorised 'A' Boards. Since then a number of Surface Directorates have been working together to deliver effective engagement and enforcement activities to tackle wilful and unlawful highway obstructions and improve compliance across the Transport for London Road Network (TLRN).
- 3.3 The enhanced engagement, education, and enforcement activity is delivered as part of Operation Clearway. Operation Clearway sees Revenue Protection Inspectors (RPIs) and Roads and Transport Enforcement Officers (RTEOs) in TfL's Directorate of Enforcement and On-street Operations (EOS), tasked to priority areas on the TLRN, to engage with businesses to improve compliance with the Highway legislation as well as gathering evidence for enforcement activity, whether that be formal warning, Fixed Penalty Notices (FPNs) or prosecution, where this is required.
- 3.4 TfL's commitment to tackling illegal obstructions on the highway has been welcomed by London Councils, London TravelWatch and other stakeholder groups.

3.5 Operation Clearway supports the Surface outcome to provide better places to walk and thus create safe, attractive, and accessible streets and places that people can use.

4 Update

4.1 Over the last year there has been a step change in TfL's approach to dealing with unlawful highway obstruction, which is proving to be effective in improving compliance in priority areas on the TLRN. The approach builds on the work undertaken by the Asset Management Directorate in this area and the successful enhanced enforcement trial undertaken by EOS in 2014.

4.2 The approach now being adopted as part of Operation Clearway has evolved and is focussed on prevention and problem-solving. The partnership approach being taken across Surface Transport and other TfL business areas is proving to be effective in improving compliance. This enhanced approach now includes:

- (a) enforcement against all highway obstructions (not just 'A' Boards);
- (b) an improvement and expansion of the method to determine at-risk locations across the whole TLRN;
- (c) greater involvement and engagement with local authorities, businesses and Business Improvement Districts (BIDs) to prevent unlawful obstruction of the highway; and
- (d) a policy statement to set out TfL's robust and firm position.

4.3 Results of this approach are so far very positive, with compliance reaching over 80 per cent in all six locations targeted to date.

Location	Rate of Compliance
Clapham High Street	85.3%
Stoke Newington High Street	85.7%
Shoreditch Triangle	86.7%
Camden High Street	84.3%
Kingsland Road	87.1%
Balham and Tooting	81.7%

Policy

4.4 Surface Transport has developed a public-facing policy setting out TfL's commitment and approach to preventing and dealing with unlawful obstructions across the whole of the TLRN. It aims to gain full compliance across the TLRN to ensure no person is put at risk from unauthorised activity that obstructs the highway. Although this is ambitious, current activity has yielded high levels of

compliance and feedback from stakeholders has been very positive. The policy is attached in Appendix 1.

Engagement, Education and Enforcement

- 4.5 The approach being used to tackle unlawful obstructions on the TLRN begins with engagement and education, and uses enforcement as a last resort. On-street officers engage and educate business owners about TfL's position on unlawful obstructions and the problems they cause for pedestrians, particular those that are visually or mobility impaired. Officers encourage businesses to remove the obstruction and take the correct course of action such as applying for a licence or using an alternative means of advertising.
- 4.6 Officers will then revisit the site to gather evidence. In cases where the business owner has failed to comply, EOS issues them with a warning letter, followed by an FPN(s) where appropriate. Prosecution is the final stage, should the case be deemed suitable for such action.
- 4.7 Operation Clearway deployments are intelligence led and on-street resources are tasked to priority locations as part of the tasking and deployment coordination process for operational staff in EOS.
- 4.8 The enhanced problem-solving approach has seen increased engagement with businesses and BIDs to prevent unlawful obstruction by working with them to provide alternative means of advertising, promoting and encouraging custom.

Scope of Activity

- 4.9 It became apparent in the early stages of the enforcement activity that the problem was not limited to 'A' Boards and that there were other types of unlawful obstructions causing a danger to and problems for pedestrians. It was also inconsistent to take enforcement action against one type of obstruction while ignoring and failing to deal with other obstructions which were equally as dangerous and obstructive. Based on this, a decision was made to expand the scope of the engagement, education and enforcement activity to cover all unlawful obstructions.

Priority Locations

- 4.10 The original approach, discussed with the Panel in 2015, had proposed that enforcement action be limited to 18 zero-tolerance locations with a view to reviewing the locations as compliance improved and the impact of enforcement developed. Again, it became apparent, through Operation Clearway activity, that the problem was more widespread than this. Stakeholder requests for action highlighted there were other high priority locations that needed to be dealt with. In light of this, a data-driven location prioritisation process was developed which identifies areas with the greatest need for enforcement activity. This enables TfL resources to be deployed intelligently across the TLRN to achieve the most effective results.
- 4.11 The tool assesses all roads on the TLRN by their risk of conflict based on pedestrian footfall, highway width and place function amongst other factors, as well as stakeholder feedback to prioritise locations. The list is regularly reviewed

and updated, and locations for enforcement activity are identified from the most at risk locations. A number of original zero tolerance locations are still considered high priority locations.

- 4.12 Engagement with Local Authorities and stakeholder groups has been strengthened as part of Operation Clearway, and is an essential part of the new approach to dealing with unlawful obstructions. The new approach has been informed by consultation with London Councils and a number of Local Authorities. EOS is liaising with boroughs to improve the flow of information on local authority licensing of tables and chairs, street trading and their procedures.
- 4.13 TfL is planning further engagement with stakeholder groups, businesses and Local Authorities as part of the policy implementation. Some of the key stakeholders include BID groups, London TravelWatch, the Royal National Institute of Blind People (RNIBP), Guide Dogs and Members of Parliament amongst others.

5 Legal Implications

- 5.1 TfL, as with other highway authorities, has a legal duty and various powers to deal with wilful obstructions of the highway under the Highways Act 1980 and the London Local Authorities and TfL Act 2003.

6 Financial Implications

- 6.1 The cost of this activity will be covered by existing budgets for on-street and back office engagement and enforcement activity. There will of course be opportunity costs but these are expected to be minimal as this activity will be incorporated as business as usual for the Surface Directorates involved.

List of appendices to this report:

Appendix 1: Transport for London Policy Statement for the Prevention, Management and Enforcement of Wilful Obstruction of the Highway

List of Background Papers:

None

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Appendix 1 – Policy Statement

Transport for London Policy Statement

Prevention, Management and Enforcement of Wilful Obstruction of the Highway

Background

TfL's goal is to keep London working and growing and make life in London better. Every journey matters and has a purpose for all our customers and users – be that by bus, tube, river or walking.

As the Highway Authority, TfL has a duty under Section 130 of the Highways Act 1980 to *“assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority”*. A failure to do so may result in injury and inconvenience to those using the highway.

TfL recognises that while some activities on our streets can add to the vibrancy and economic viability of a location, unauthorised and wilful obstruction of the highway caused by items such as advertising boards and un-licensed tables can cause significant issues, and a potential danger for groups such as disabled people and the visually impaired. We must ensure we do all we can to protect and support those vulnerable people who rely on having the confidence to use a clear and uncongested highway.

TfL strives to create a safe, secure and accessible transport network for all who use it and will take the necessary action to ensure that risks of harm are minimised. TfL is seeking to gain full compliance across the Transport for London Road Network (TLRN) to ensure no person is put at risk from unauthorised activity that obstructs the highway.

TfL Story

The TfL story sets out our goal to keep London working, growing and to make life in London better. Prevention, management and enforcement of wilful obstruction will be delivered through the four pillars of our strategy:

Customers and Users

Customers are at the centre of everything we do, and we strive to deliver constant improvement to make life easier and safer for our customers. Highway users, and particularly those who are vulnerable, should have confidence that the highway is safe, secure and free of danger whilst being able to enjoy public amenities within their community.

People

Our staff work tirelessly to keep our roads safe and secure. Ensuring our network stays this way will be the responsibility of all our staff. We will commit to ensuring our internal processes support our aim of eliminating unlawful obstructions from our highway to achieve full compliance. We will also work collaboratively and in close partnership with those outside the organisation who play a significant part in achieving our goal.

Delivery

We will educate and inform our staff and all relevant parties to ensure they have the knowledge, information and resources to keep the highway clear. We will work with our partners in the boroughs and with businesses to make sure we have a coordinated

approach to tackling wilful obstruction of the highway. We will analyse data to deliver the most effective response, prioritising the locations in greatest need.

Value for Money

In delivering an organised strategy to tackle wilful obstructions, we will ensure the best value for fare and tax payers' money, by making existing procedures more efficient and increasing staff productivity. Although we are aiming to make the entire TLRN safe, we will begin by prioritising areas where our enforcement activities will have the greatest impact, focusing our resources on where we can make the biggest difference to our highway users. We will ensure we take effective actions which improve the experience of those using our highway to increase accessibility to the benefit of local businesses.

What We Will Do

TfL will seek to protect the highway from wilful obstructions by:

Seeking full compliance

- TfL will strive to achieve full compliance by eliminating illegal and dangerous obstructions from the highway.
- Have a co-ordinated and well managed strategy in place.
- Send a clear and consistent message to ensure highway users understand our policy and approach to address wilful obstruction of the highway.
- Work with businesses of all shapes and sizes to prevent wilful obstruction and encourage good practice and knowledge sharing.
- Encourage the use of public amenities and creation of community areas whilst minimising the risks to highway users and those who are most vulnerable.

Education, Engagement and Enforcement

- Use education and engagement as our primary tools for preventing and managing wilful obstruction of the highway with enforcement as a last resort.
- Prioritise locations for engagement, education and enforcement based on the biggest risks to ensure we protect the most users and have the greatest positive impact.
- Listening to vulnerable users to understand their needs and address their concerns, taking this through to our education and training.
- Train staff to deal with such offences and provide them with the necessary tools to engage with businesses on the roadside.
- Engage with businesses to encourage the use of alternative means of promotion without obstructing the highway.

Licensing

- Work with our partners in the boroughs to create open lines of communication and improve current procedures for the licensing of public amenities on the TLRN.
- Be proportionate when reviewing applications for licences on the TLRN.
- Providing clear guidelines to boroughs and businesses of our licensing conditions and our approach to managing risk.
- Strive to create a database of highway licences across the TLRN.

Who Does This Apply To

TfL, the public, highway users, the boroughs and businesses must all do their part to ensure the highway is kept safe and clear. Each person, team or organisation has a responsibility to work together to eliminate wilful obstruction of the highway.

The policy, related procedures and associated guidelines are the responsibility of TfL who will work closely with its partners to ensure our response is as efficient and effective as it can be.

What Does This Mean In Practice?

Our Aims

Our aim is to make sure that all highway users are aware of the potential dangers and issues caused by wilful obstruction of the highway and the impact this has on the public, in particular the visually and mobility impaired. We want to achieve full compliance across the Transport for London Road Network (TLRN) to keep it safe and free from obstruction, giving more people the confidence to use the highway. This means keeping the highway clear from A-boards and unlicensed activities. In order to be fair to all highway users, we want to ensure our approach to wilful obstruction is clear and consistent across the whole of our network. To achieve these aims, a number of supporting processes and procedures are in place. These are described below and provide an overview of the relevant people and processes involved.

Our Staff

At TfL we have over 350 officers who are deployed on the street to deal with a range of issues such as fare evasion, street work issues and taxi licencing compliance. Some of these officers are trained to deal with wilful obstruction of the highway. These officers are deployed to educate and engage with those causing a wilful obstruction to help increase their understanding and gain compliance.

Location Prioritisation

Taking action against all instances of wilful obstruction on the TLRN at the same time would be impractical as our resources are needed to address a number of different issues across many parts of the TLRN. Therefore, in order to deploy our resources in the most effective way, we are prioritising locations based on a process which identifies areas with the highest 'risk of conflict'. This is based on an assessment of a number of factors including level of footfall, highway width and area type. For example there are likely to be more obstructions and higher foot-fall in areas where there lots of on-street activities such as a high street with cafes and shops – this would be prioritised as a higher risk location. Using this method, we are able to deploy our resources in the most

effective way to ensure we have the biggest impact on the largest number of highway users.

Education, Engagement and Enforcement

Once tasked with a priority location, our officers are deployed to engage, educate and gather evidence. In the first instance, when an officer identifies a wilful obstruction, they will aim to engage with the person responsible for the obstruction to explain the potential dangers and the problems it causes the public. Following this, officers will collect photographic and written evidence of an offence so that we can decide the best course of action. In most cases, a warning letter is sent to the person responsible explaining the dangers of wilful obstruction. The warning letter includes guidance on acceptable alternatives to a number of common obstructions and provides information on how to obtain a licence or consent if applicable. Our officers will then be sent out to check if the obstruction has been removed. In a case of non-compliance officers will gather more evidence and the person responsible may be issued with a Fixed Penalty Notice (FPN). If unpaid, we may issue further FPN's before making a decision on the best course of action including potential prosecution.

Compliance Monitoring

TfL will continue to monitor compliance in areas where education, engagement and enforcement have taken place. This will happen on a regular basis until TfL is satisfied that the highway is clear of unlawful obstructions.

Licencing

TfL recognises that some activities on our streets add to the vibrancy and economic viability of a location. However, it is important that these activities are licenced to ensure they are safe, and balance the needs of all our highway users. Licences can be obtained in a number of different ways, through TfL directly or through a local authority with the consent of TfL. In order to make sure activities are suitable, TfL are engaging with the boroughs to ensure TfL are consulted on licence applications. This will safeguard against any instances where activities are unsafe or have a negative impact on our highway users. This means that applicants must satisfy both borough and TfL standards to be successful in obtaining a licence.

What are the implications?

- A-Boards, no matter how big or small, will not be allowed on any part of the Transport for London Road Network (and are not allowed within the space allocated for licenced tables and chairs). There are a number of acceptable alternatives to A-boards which we would encourage businesses to consider as an alternative where applicable.
- All other activities on the TLRN must be licenced. If an activity is found to be unlicensed education, engagement and finally enforcement action will be taken which could result in a Fixed Penalty Notice or prosecution.
- Any activity licenced on the TLRN will be monitored to ensure it is compliant with the conditions attached to it. If there is a breach of the licencing conditions, education, engagement and finally enforcement action will be taken which could result in a Fixed Penalty Notice or prosecution.

- TfL will monitor priority locations on a regular basis as varying times of day so our officers can ensure businesses continue to comply with our policy to keep the highway clear from obstruction.
- By removing wilful obstructions from the highway, more space will be created for pedestrian movement and more people will be able to access businesses where there may have been a barrier before. This will benefit businesses and London's streets in the long term as demand for space on the highway grows.