

**STREET ADVERTISING - 'A' BOARDS & BANNERS**

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**1.0 EXECUTIVE SUMMARY**

1.1 The purpose of this report is to outline to Members the legislative and regulatory framework that exists in relation to commercial signage, most specifically 'A' Boards and banners that appear on pavements. It has been noted by the Chair of the OLI Committee that there has been an increase of such promotional signage in Oban in recent months. The report also highlights that a report relating to a new advertising strategy was presented to the May 2016 Planning, Protective Services and Licencing Committee (PPSLC).

1.2 The Council has a significant interest in these matters, not only because we are the regulator (under Planning and Roads legislation where the Council is the roads authority as defined by the roads Acts), but in many scenarios we are also the landowner or steward as the A boards are positioned on Council owned or controlled pavements or are attached to our street furniture (railings, lampposts, benches). Transport Scotland, similarly, has vested interest in certain areas as they are the regulator, under roads legislation, responsible for managing and maintaining the Trunk Roads in key locations – such as George Street in Oban.

1.3 Members are recommended to:-

- Note the contents of this report that there is a legislative and enforcement framework that people who place signage on pavements should abide by; and
- Be aware that the Council is currently developing a new advertising strategy that will include the development of new advertising opportunities / platforms as well as an equitable enforcement regime and design guidelines. There will be stakeholder engagement as part of this process and Members of the Planning Protective Services and Licensing Committee (PPSLC) have been appointed onto the project board. The regulatory guidance shall be published in autumn 2016.

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### 2.0 INTRODUCTION

2.1 Advertising and signage are important to the viability of Argyll and Bute’s shops and businesses and to the health of the local economy. Advertising can be informative and, when well designed and sited, can add interest and vitality to an area too. As well as having the practical purpose of providing information about businesses, goods, events and other matters, its presence is often a great influence on the overall appearance of that location as seen by the passer-by.

2.2 However, a proliferation of signs and advertisements of different sizes, colour and design can create a cluttered appearance with no visual cohesion which may be damaging to the appearance of buildings, streets or areas. Often signs are appearing without consent which potentially create an obstruction or are of an unsuitable scale, location or design. Banners, A-Boards and merchandise which traverse across pavements or attach to street furniture in our towns also have potential to cause trip hazards to the public (particularly for people with impairments, buggies, wheelchairs or mobility issues) or damage property. From a street cleansing point of view they can also become obstacles that need to be negotiated.

2.3 The Council has a significant interest in these matters, not only because we are the regulator (under Planning and Roads legislation where the Council is the roads authority as defined by the roads Acts), but in many scenarios we are also the landowner as the A boards are positioned on Council owned or controlled pavements or are attached to our street furniture (railings, lampposts, benches). Transport Scotland, similarly, has vested interest in certain areas as they are the regulator, under roads legislation, responsible for managing and maintaining the Trunk Roads in key locations – such as George Street in Oban.

### 3.0 RECOMMENDATIONS

Members are recommended to:-

3.1 Note the contents of this report that there is a legislative and enforcement framework that people who place signage on pavements should abide by; and

3.2 Be aware that the Council is currently developing a new advertising strategy that will include the development of new advertising opportunities / platforms as well as an equitable enforcement regime and design guidelines. There will be stakeholder engagement as part of this process and Members of the Planning Protective Services and Licensing Committee (PPSLC) have been appointed onto the project board. The

regulatory guidance shall be published in autumn 2016.

#### **4.0 DETAIL – CURRENT ISSUES**

4.1 In certain parts of Argyll and Bute, the amount of signage currently being displayed has reached the point where it detracts from the special quality of our Villages, Towns and open countryside. Pavement clutter can also pose a significant threat to pedestrian and road user safety as well damage to Council assets if signs are fixed onto property improperly. The Chair of Oban, Lorn and the Isles Area Committee has specifically raised concern about the volume of signage that is now present in Oban Town Centre and has sought clarification on the legislative framework that advertisements must comply with. The wider pavements that have been secured through the CHORD investment are being utilised much more readily by shopowners to promote their goods or services.

4.2 Furthermore, it is noted that a Report was presented and agreed by the Planning, Protective Services and Licensing (PPSL) Committee in May 2016 that a new strategy for dealing with signage shall be prepared. This new strategy has 2 distinct project elements to it:- (1) Develop a suitable and attractive signage offer by the Authority (2) Review and develop policy for a robust and equitable regulatory / enforcement regime. Both of these aspects will require significant stakeholder consultation and require input from multiple Council departments including Roads, Planning, Communications, Economic Development, Legal and Estates. There must also be adequate resourcing of this project. A number of elected Members of the PPSLC have also been appointed onto the Project Board.

#### **5.0 Legislative Framework**

5.1 The vast majority of advertisements in our Towns such as A boards, banners, directional signs and shopfronts will require some form of permission from the Council or Transport Scotland namely:-

1. Planning Permission (including Advertisement Consent);
2. Permission from the Roads Authority (Council or Transport Scotland); and
3. Consent from the landowner (who may be the Council)

5.2 **The Town and Country Planning (Scotland) Act 1997** - section 182 provides that Regulations shall make provision for restricting or regulating the display of advertisements so far as it appears to the Scottish Ministers to be expedient in the interests of amenity of public safety. Regulation 5 of The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, (as amended), states that no advertisement may be displayed without the consent of the planning authority. There are a limited amount of advertisements that have 'deemed consent' (ie do not require express planning permission) but for all pavement advertising permission is required. It is an offence to display an advertisement in contravention of the regulations. The 1997 Act (s186) states that a person is deemed to be displaying an advertisement if they are:

- the owner or occupier of the land on which the advertisement is displayed, or

- the advertisement gives publicity to his goods, trade, business or other concerns.

5.3 A person shall not be guilty of an offence if they prove that the advertisement was displayed in the circumstances mentioned above without their knowledge or consent

5.4 It is noteworthy that the legislative provisions relevant to advertisement consent provide that the grounds for withholding consent are limited to public safety and visual amenity, so other considerations such as the need for, or the purpose of the advertisement, or the actual content of the signage are not planning considerations. An application for advertisement consent will cost £202 and will require a set of plans identifying where the sign / banner will be located and include details of sign design.

5.5 **The Roads (Scotland) Act 1984** -A road is defined by the Act as any way (other than a waterway) over which there is a public right of passage and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes.

5.6 Section 59 of the Act provides that it is an offence to place or deposit anything in a road so as to cause an obstruction except with the roads authority's (which is either the Council or Transport Scotland dependent upon the classification of the road) consent in writing and in accordance with any reasonable conditions which it thinks fit to attach to the consent. A person who contravenes section 59 commits an offence. . . .

5.7 It is also an offence, under section 100 of the Act, for a person to, without lawful authority or reasonable excuse, deposit anything whatsoever on a road so as to damage the road or to paint or otherwise inscribe or affix upon the surface of a road or upon a tree, traffic sign, milestone, structure or works on or in a road, a picture, letter, sign or other mark..

5.8 Schedule 8 of the Act prescribed that an offence under s59 of the Act is liable on conviction to a fine of up to level 4 on the standard scale (£2500). An offence under section 100 is liable on conviction to a fine of up to level 3 on the standard scale (£1000) .

5.9 In considering request for permission, the Council or Transport Scotland will ensure that sufficient footway width is retained for pedestrians to move about safely. The new strategy and design guides may also require pavement width criteria and some form of indemnity against liability for injury to third parties caused by the advertisement or sign.

5.10 The Council or Transport Scotland may also be the **landowner / owner** in certain scenarios. This is most likely the case when signs are attached to street furniture (railings, lampposts, bins, signposts) within the road. There are numerous examples of canvas banners that have been affixed to railings in most of our towns. Concern has been noted that some of these structures cannot cope with the additional loading or wind blow and may cause damage to the property or become

detached and cause a public safety hazard. To this extent, landowner permission should always be obtained. The majority of Council owned street furniture is not designed for third party signs to be attached to them and may become unstable particularly in inclement weather.

## **6.0 Unauthorised Advertisements - Enforcement and Resources**

6.1 Argyll and Bute Council fully understands that our local businesses are operating in difficult economic circumstances and as such, we are keen to support their ongoing trade. Argyll and Bute seeks to deliver a signage strategy that balances business needs along with obligations to ensure pedestrian/traffic safety and to protect the visual appearance of our Council area. Our aim is to work in partnership with commercial stakeholders and produce a proportionate and attractive signage environment.

6.2 In many cases businesses act responsibly by creating attractive and well located signage with the necessary consents. The Council currently deals with complaints about unauthorised signage in line with our Planning Enforcement Charter or via the Roads Department (where there is a road safety issue). The enforcement response could be anything from a negotiated solution being identified, submission of an advertisement application, total removal of the sign (direct action), or prosecution. There are added complexities when dealing with unauthorised signage that is located on Council owned land (usually car parks, railings, pavements or verge) because the Planning Authority cannot serve an Enforcement Notice upon another department of the Council. In this regard the most appropriate form of resolution is to seek voluntary removal of the sign or use powers under the roads act or as landowner to physically remove the unauthorised signage.

6.3 Previously there have been crack downs on signage and Roads Department or Environmental Wardens simply uplifted all unauthorised signage in an area and stored them at Council depots for the owner to collect. However, this has not happened for a number of years and has usually drawn notable media or political attention that has not always been controlled or coordinated. It is accepted that there are particular hotspots where monitoring is failing and unauthorised signs have become the norm and the Council have become re-active rather than pro-active in enforcement. This is in part, due to the lack of a coordinated signage strategy. This is now being prepared (see section 7 below).

6.4 As with any form of monitoring and enforcement undertaken by the Council (Roads Department or Planning Department) or Transport Scotland resources must be appropriately aligned to its implementation and a clear priority given other activities. The priority to which signage is given shall also be reviewed as part of the signage strategy. The Planning Service has recently reduced the number of Enforcement Officers as part of the 2016/17 budget process and the Enforcement Charter is currently being reviewed in light of this. Roads Inspector resource must also be reviewed in light of the new advertising strategy.

## **7.0 New advertising strategy**

7.1 A Report was presented and agreed by the Planning, Protective Services and

Licensing (PPSL) Committee in May 2016 detailing that a new strategy for dealing with advertising and signage is currently being prepared.

7.2 This new strategy has 2 distinct project elements to it:- (1) Develop a suitable and attractive signage offer by the Authority (being led by Communications Team as part of innovation fund and transformation board) (2) Review and develop policy for a robust and equitable regulatory / enforcement regime (being led by Planning and Roads Dept). Both of these aspects will require significant stakeholder consultation and require input from multiple Council departments including Roads, Planning, Communications, Economic Development, Legal and Estates. A number of elected Members of the PPSLC have also been appointed onto the Project Board.

7.3 At the heart of the new strategy is the principle that the Council and Transport Scotland are responsible for the management and maintenance of public and trunk roads under the roads acts, and have control over a large part of the public realm as landowners. They therefore have within their gift the opportunity to identify and devise suitable locations and structures which can be utilised and created to provide business advertising space. This is not something currently available to the business community, but if made readily accessible with successful take up, would subsequently allow the authority to manage the regulatory regime in a more rounded fashion, not simply refusing consents for advertising and signage, but being able to offer alternative and acceptable options. There may also be enhanced opportunity to strengthen town branding or tourist appeal through consistent advertising (ie Oban – Seafood Capital or Inveraray – Black and White Theme) as well as income generation or supporting local businesses.

7.4 The process of identifying new advertising opportunities is currently ongoing and involves benchmarking with other Local Authorities. A report will be taken back to the Innovation Fund in the summer 2016 to request funding to further explore this potential, what the possible revenue generation may be, how it would be delivered and at what cost, and consider what the issues for the Council may be, such as who may or may not be inappropriate advertisers. It is envisaged that Customer Service will project lead this element of the project, although a timetable and project plan for its delivery is not yet established. Given the uncertainty of that timetable, the intention is that the Planning Service will push ahead with the planned review of the regulatory regime for advertising and signage so that it will be ready in advance of the delivery of any Council advertising space. It is intended to report this to PPSL in the autumn 2016. At that stage a decision can be made regarding the appropriate time for its implementation in relation to the delivery of advertising space.

## **8.0 Conclusion**

8.0 It is recognised that commercial signage in Argyll and Bute is an important asset for our businesses and in many circumstances adds value to our street scape as well as informs customers. However, there are permissions that should be obtained from the Council or Transport Scotland prior to deploying signage and an increasing number are appearing in unsuitable locations or causing proliferation. This is starting to detract from our towns and villages as well as creating a potential hazard to the public or road users. Whilst the Council or Transport Scotland do have enforcement powers as the Roads Authority, we understand that a balance must be struck to allow

certain signs and alternative advertising opportunities to our businesses. This proportionate and balanced approach shall be the focus of the new advertising strategy that is currently being prepared by Communications Team, Roads Department and Planning Services. It is pivotal that engagement takes place with the business community during the development of this strategy.

## **9.0 IMPLICATIONS**

- 9.1 Policy – The advertising strategy is likely to be submitted to full council for adoption and the regulatory regime / design guides will become non-statutory Planning Guidance
- 9.2 Financial – Wider project has potential to generate revenue, but this will be explored and confirmed through the Council Innovation Fund
- 9.3 Legal – Regulatory regime and enforcement should consider liability matters should member of the public be hurt or property damaged by unauthorised sign or banner
- 9.4 HR – None
- 9.5 Equalities – Design guides and regulatory regime should fully consider impact of pavement signs on all. Natural justice in terms of regulatory regime to obtain necessary consents.
- 9.6 Risk – significant risk to advertising project if support is not obtained from political or commercial stakeholders. Reputational risks if businesses do not support advertising strategy.
- 9.7 Customer Service – None

**Executive Director of Development and Infrastructure Services** Pippa Milne  
**Policy Lead** Cllr David Kinniburgh  
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**For further information contact:** Ross McLaughlin, Development Manager  
Tel: 01436 658914