

CHESHIRE EAST COUNCIL

Cabinet Member for Environmental Services

Date of Meeting: 19th October 2010
Report of: Head of Regeneration
Subject/Title: Clear Way Forward Policy

1.0 Report Summary

- 1.1 That the Cabinet Member approves the policy to control the use of Advertising Boards and Goods displayed on the highway by the introduction of a guidelines scheme.
- 1.2 The Borough Council currently does not have a policy on the control of Advertising Boards or Displays of Goods on the highway.
- 1.3 The use of Advertising Boards throughout the Borough has steadily increased over the past few years. Advertising Boards are now causing a problem to pedestrians and particularly the visually impaired and wheelchair users.
- 1.4 They are also having an adverse effect on the Borough's streets and shops. It is for these reasons that the Borough Council is proposing this policy and guidelines to reduce the number of Advertising Boards and control the impact they have on pedestrian safety and convenience.

2.0 Recommendations

- 2.1 That the Cabinet Member for Environmental Services

- (1) approve the proposed Clear Way Forward Policy for Cheshire East;
- (2) endorse the current practice of the removal by the Council of fly posters and signs attached to street furniture without reference to the party who placed them; and
- (3) approve the introduction of charges to licence the displays of goods on the highway that are remote from the business in respect of the initial application, a renewal fee and, where the Council is the owner of the subsoil, a fee per square metre used, as detailed in the report.

3.0 Reasons for Recommendations

- 3.1 The use of Advertising Boards throughout the Borough has steadily increased over the past few years. Advertising Boards are now causing a problem to pedestrians and particularly the visually impaired and wheelchair users.

- 3.2 They are also having an adverse effect on the Borough's streets and shops. It is for these reasons that the Borough Council is proposing this policy and guidelines to reduce the number of Advertising Boards and control the impact they have on pedestrian safety and convenience.

4.0 Wards Affected

- 4.1 This report affects all wards equally.

5.0 Local Ward Members

- 5.1 This report affects all wards equally.

6.0 Policy Implications including - Climate change - Health

- 6.1 There are no human resources implications of the recommended option.
- 6.2 The policy is intended to ensure that highways enforcement is carried out in a fair and consistent way.
- 6.3 Enforcement of highways legislation is intended to bring about a reduction in environmentally irresponsible behaviour.
- 6.4 Enforcement of highways legislation is intended to bring about a reduction in environmental problems including the appearance of the street scene and obstructions caused by Advertising boards and shop displays. Local people, businesses and communities can expect to see an improvement in the street scene and safety as a result of this enforcement.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The Strategic Director confirms that the costs of implementing this policy will be met from existing budgets.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 It is an offence to deposit things on the highway without authorisation and the Council is empowered to prosecute offenders under the Highways Act 1980 and the Police Town Clauses Act 1847. Other powers are available under the common law. Technically, anything located on the highway, which is not authorised by law, is capable of amounting to an obstruction. This applies to both permanent and temporary features. As a result, the scope of these sections has been extended to encompass related matters such as Advertising Boards, goods placed on the highway and 'al-fresco' refreshment areas.

Section 130(a) of the Highways Act 1980 places a duty on a highway authority to;

“assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority...”

Section 130(3) also provides that

“Without prejudice to subsections (1) and (2) above, it is the duty of a council who are a highway authority to prevent, as far as possible, the stopping up or obstruction of the highways for which they are the highway authority”

There are several sections of the Act which enable the Council to take action to remove unauthorised features that have been placed on the highway.

These are;

- s132: Power to remove marks or signs from the highway
- s143: Power to remove structures from the highway
- s149: Power to remove things deposited on the highway as to be a nuisance

- 8.2 Under Part VII A of the Highways Act 1980 the Council has the power to licence the placing of items and amenities on certain types of highway, namely, footpaths, footways, pedestrian planning areas and other highway where vehicular traffic is prohibited. In some cases, the consent of the frontagers is required and special considerations apply in respect of a walkway.
- 8.3 The Council has the power to impose such terms and conditions in the licence as it thinks fit, including a requirement to indemnify the Council in respect of the placing/retention of the item on the highway. In respect of fees, if the Council is the owner of the subsoil it can impose such reasonable charges as it may determine. Where the Council is not the owner of the subsoil of the highway, it can only require the payment of such charges as will reimburse the council for its reasonable expenses in connection with granting the licence. Prior to granting a licence the Council is required to post notices on the street, serve notice on the owner and occupier of any premises appearing to the council to be likely to be materially affected and undertake consultation. The licence must not be granted until the Council has taken into consideration all representations made to it in connection with the proposal within the period specified in the notice.
- 8.4 If it appears to the Council that the licensee has committed any breach of the terms of the licence, it may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified. If the person fails to comply with the notice, the Council may take the steps itself and any expenses incurred, together with interest may be recovered from the person on whom the notice was served.
- 8.5 The advantage of entering into a licence with each individual person or business is that the Council can ensure compliance with the terms and conditions of the licence. Without a licence, the Council can only set down guidelines and then take enforcement action where appropriate.

9.0 Risk Management

- 9.1 The risk of not implementing this policy is that when we take a case to court we have no formal policy to back up the action being taken.

10.0 Background and Options

- 10.1 The shopping areas within Cheshire East town centres have much to offer by way of creating an ambience that makes them attractive to shoppers and visitors alike. The Council recognises this and, in its capacity as the highway authority, seeks to assist Businesses to promote their business activities in a way which is compatible with the public's right to use and enjoy the highway.
- 10.2 It is apparent that many Businesses advertise on the highway by using Advertising Boards and to a lesser extent displays of goods on the highway. A policy for the control Advertising Boards and Displays is required to safeguard the use of the highway by the public and for Businesses to understand their position and responsibilities in that respect.

Highway Signage

- 10.3 Highway signage may be considered in the following categories:

Signs - The Council's policy defines three types of signs;

'Official' signs: e.g. temporary and permanent road signs, boundary / parish signs, contractors' information boards, brown 'tourist' signs.

These being permitted in accordance with the appropriate legislation.

'Unofficial' signs: e.g. Advertising boards and other signs advertising B&B, farm shops, pop concerts, garden centres etc. The policy stated that they should not be allowed on the highway and they were therefore not permitted.

'Accepted' signs: Whilst they were not officially approved, signs that advertised events organised by recognised community groups, which are 'not for profit' and are for the benefit of the community were permitted on the proviso that they did not constitute a hazard to road users. Typical examples include banners advertising village rose fetes and charity firework displays organised by say, the local Rotary Group.

Goods on the Highway - The former County Council did not have a policy which specifically related to the management of goods placed on the highway. Where enforcement action was needed, the existing primary legislation was utilised (s143 and / or s149 of the Highways Act 1980).

Section 143 does have a significant drawback in that enforcement action can only be taken one month after a notice has been served on the person who has placed the items on the highway. More immediate action can be taken under s149, but officers had to be satisfied that the object deposited on the

highway constituted a danger. Prosecutions had been threatened but no proceedings were taken. In part this is because offenders have complied with requests to remove obstructions but also direct enforcement action is of more immediate effect bearing in mind that a prosecution in itself does not operate to remove the obstruction.

Options

Advertising Boards and Other Advertisements

- 10.4 Fly-posters and signs attached to street furniture not only act as a distraction to drivers, but they are also unsightly. It is therefore proposed that where such posters or signs are attached to street furniture the Council shall continue to remove and dispose of them as soon as is reasonably practicable and without reference to the party who placed them there. Fly-posting not on street furniture is dealt with under different legislation.
- 10.5 There are several options that Members may wish to consider in respect of the management of Advertising boards. These range from the adoption of a 'zero tolerance' stance to requiring all features to be licensed through to the 'do nothing' approach. However, in pursuing a rational way forward, it is important to stress that the Council needs to adopt a policy which can be sustained using available staffing and budgetary resources and is also designed to reflect the various local conditions that exist across the Borough.
- 10.6 Many highway authorities have considered whether A-Boards should be permitted on the highway. It would be fair to say that the approach nationally has been somewhat inconsistent. The London Borough of Kingston have banned all Advertising Boards on footways whilst in Leeds they are banned from the city centre but allowed elsewhere, albeit within certain criteria. Nottinghamshire and Warwickshire County Councils have introduced a system whereby such features are permitted to be placed on the highway without a licence on the condition that they meet a series of guidelines.
- 10.7 This latter approach is one that officers believe could form the basis of a fair, pragmatic and workable policy that the Council may wish to adopt. Hence, in order to strike a reasonable balance between the needs of businesses and highway users, it is suggested that the Council is unlikely to take enforcement action against persons placing Advertising boards on the highway provided they are placed in accordance with a set of guidelines.
- 10.8 However, it is recognised that the siting of Advertising Boards in some areas might be inappropriate or create hazards for highway users and therefore the Council will still take enforcement action where it considers it to be appropriate. Thus, rather than imposing a 'one size fits all' policy, it is suggested that an element of discretion should be built into the guidelines which would permit the Area Manager's and the Council's Community Safety

Wardens to manage Advertising Boards in a way that suits the local area. Whilst this may lead to the adoption of a seemingly inconsistent approach, for the reasons outlined above this is considered to be reasonable and fair.

Goods on the Highway

- 10.9 From both a legal and practical perspective, there are few differences between proprietors placing Advertising boards on the highway and them displaying goods they have for sale outside their premises. Hence, most of the issues and options relating to the Advertising Boards that were outlined in the preceding section are applicable to the display of goods on the highway.
- 10.10 However, there are a number of additional factors that need to be taken into account when considering this particular aspect. For instance, it would not be appropriate for alcohol to be displayed for sale nor would it be sensible for potentially hazardous materials such as gas bottles to be placed on the highway.
- 10.11 Displays of goods which are adjacent to the business premises and do not impede the public's use of the footway could be permitted and controlled in much the same way as A Boards albeit there would be some additions to the guidelines. Displays of goods remote from the business premises are a different issue and if they are to be allowed they need more stringent control which is best achieved through licensing.

Way Forward

Licensing

- 10.12 Displays of goods on the highway remote from the business premises would be licensed in accordance with s115 of the Highways Act 1980, on terms and conditions approved by the Borough Solicitor. Such terms would govern the area to be occupied, state that no transactions take place on the highway, require indemnification of the Council and adequate public liability insurance and state the charges to be paid in granting the licence.
- 10.13 It is proposed that a flat rate charge of £450 would be payable on application, and where the Council is the owner of the sub-soil the charge of £90 per square metre taken up by the licensed area. These fees would be payable prior to completion of the licence. Should an application fail then an amount of £150 would be refunded to the applicant. The retained portion reflects the Council's costs in dealing with the application. The licence would be renewed every three years, for an administrative fee of £100, on similar terms as the original licence.

Policy

- 10.14 A policy and set of operational guidelines dealing with Advertising Boards and displays of goods on the highway are set out in the Appendix to this report.

Enforcement/Supervision

- 10.15 Previously the enforcement and supervision of Advertising Boards and displays of goods on the highway was the preserve of the Area Manager's staff. Due to the many pressures on the Area Manager's staff, checking and supervision was only really carried out following complaints from the public or other sources. Consideration in conjunction with consultation with Town Centre Managers should be given to extend the responsibility for the management and supervision of Advertising Boards and displays of goods on the highway to the Council's Community Safety Wardens, CSW's. The CSW's have a high visibility within the town centres and they are well placed through their daily interactions with both businesses and Town Centre Managers to enforce the Council's policy and guidelines. Where considered appropriate, a further report will follow to provide the necessary delegations to the CSWs.
- 10.16 Where a business consistently fails to comply, after formal notification by the Council, with the guidelines for the placement of an Advertising Board or display of goods on the highway then the Council will have the offending Advertising Board or display removed to the Council's depot. If further signs or goods are placed on the highway otherwise than in compliance with the guidelines then the trader will be advised that legal enforcement action may be commenced by the Council.
- 10.17 Where a licence exists, any business who consistently fails to comply with the licence conditions will, following formal notification by the Council, have that licence revoked and the business shall be required to immediately remove the display from the highway. Should the business fail to remove the display then the Council shall remove the display and recharge the costs including council staff time to that business in accordance with the terms of the licence.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Policy for Advertising Boards and Displays of Goods on the Highway

1.0 Introduction

- 1.1 Advertising Boards and displays of goods are a fashionable way for businesses to promote their business in and around the town centres of the Borough, adding to the colour and atmosphere of the street scene for residents and visitors alike.
- 1.2 Advertising Boards and displays of goods must be appropriate for the area and properly set up so that they benefit the business, enhance the shopping area and do not cause a problem for other users of the street.
- 1.3 The Council is prepared to allow Advertising Boards and displays of goods to be placed on the highway on the strict understanding of the businesses that place them adhere to the terms of the Council's policy for Advertising Boards and Displays of Goods Adjacent to Business Premises on the highway.
- 1.4 Displays of goods remote from the business premises (greater than 2m away from frontage) will be considered only exceptionally and must be licensed by the Council. The requirements of the licence must be met in full, and at all times, by the business.

2.0 Consideration

- 2.1 Before a business places an Advertising Board or display on the highway the following factors need to be taken into account. The amount of space the Advertising Board or display will remove from the public use of the highway.
 - How the proposed Advertising Board or display will look when it is set up.
 - The effect it may have on the passage of the public on the highway including local residents, workers, shoppers and visitors.
 - Is the Advertising Board or display located in a Conservation Area? (The design and materials may need to be considered)
- 2.2 The Council appreciates that businesses will want to place their Advertising Board or display in a way that is attractive to customers. However, the following factors have to be taken into account when planning the setting out of the Advertising Board or display.
 - Available space
 - Type of premises
 - Street width
 - Street character
 - Number of passers-by
 - Existing furniture e.g. benches, planters etc. Other Advertising Boards, Displays of Goods or Street Cafes nearby
 - Residential properties

- 2.3 The needs of people using the highway are of paramount importance when considering Advertising Boards and displays. Freedom of movement for the disabled, pedestrian flows, access for emergency vehicles etc need to be taken account of. The type, size and colour of the Advertising Board and the type size and make up of displays need to be in keeping with the area. It is essential that Advertising Boards and displays do not cause an obstruction or inconvenience to members of the public, particularly people who are disabled, therefore adequate space must be left for wheelchair access.

3.0 Guidelines for Setting out an Advertising Board or Display of Goods on the Highway

- 3.1 Every Advertising Board and display should be placed according to these important key principles:

- People walking past the premises should have at least 1.8 metres of clear footway between the edge of the carriageway and the Advertising Board or display. This is to ensure that pedestrians, particularly the visually impaired, are not obstructed.
- In a very busy street it may be necessary to leave more than 1.8 metres of footway space for pedestrians. The manner in which the Advertising Board or display is set out should not prevent or discourage people from using the footway. The route available to them must be straightforward, obvious and unobstructed.
- The Advertising Board or display should be located immediately outside the front of the business premises and not on highway fronting adjacent businesses or properties.
- In pedestrianised areas these principles will generally apply to A Boards, although the special nature of these areas means that variations may be considered on an individual basis.
- A route for emergency vehicles (minimum 3.5 metres) is required.

- 3.2 The placing of an Advertising Board or display on the highway must meet the following requirements.

- Advertising Boards or displays will only be allowed on pavements where sufficient width of footway can be left clear and unobstructed for pedestrian usage of the area (usually a minimum of 1.8 metres).
- Advertising Boards or displays must not be placed in the way of vehicle movements - this is to ensure free and unobstructed access by the emergency services.
- All Advertising Boards must be temporary in their nature so that they can be easily removed i.e. they require no excavation to be installed or removed. They are to be totally removed from the highway at the end of each day's trading.

- Advertising Boards or display must not be located within 1.2 metres of any other permanent or temporary sign, pillar, post, item of street furniture, other display or the edge of the carriageway.
- An unobstructed footway width of 1.8 metres is desirable, but where this is not practicable a minimum width of 1.2 metres should be maintained. In pedestrianised areas a minimum width of 3.5 metres shall be provided.
- Advertising Boards or the display must not cause a visual distraction or obstruction to vehicle sight lines or block visibility for pedestrians.
- The siting of an Advertising Board or display must take into account the other reasonable needs of the area e.g. bus stops, pedestrian crossings, etc. in relation to their positioning.
- In areas of high volume pedestrian flow, e.g. near schools or in certain pedestrianised areas, the placing of an Advertising Board or display may not be allowed. This decision will be made by responsible Area Highways Manager.
- Advertising Boards and displays must be such that they can easily be detected by the visually impaired and negotiated by those with mobility handicaps.
- On footways an Advertising Board or display must not be placed within 2.0 metres of any tactile paving.
- Advertising Boards and displays must be stable and not represent a potential danger to any highway users. In particular, the structure must be of sufficient weight or design to prevent it being blown over in the wind.
- Advertising Boards or displays must not have a detrimental effect on the fabric of the highway.
- If appropriate, all other approvals and consents must be obtained prior to the Advertising Board or display being placed on the highway (including street trading and planning consents).
- Only one Advertising Board will be permitted per business.
- Any advertisement must relate only to the normal business of the trading establishment.
- Advertising Boards must not be fixed to lamp posts, bollards, seats, highway trees or other items of street furniture by means of chains, rope, etc. Any that are so fixed may be removed by the Council at any time without any reference to the owner.
- Advertising Boards should be no wider than 800mm square in plan and no higher than 1000mm above ground level.

- Rotating or swinging Advertising Boards will not be permitted.
- Advertising Boards must not contain any visual or written material that could be construed as inappropriate or offensive. Any breach of this condition will result in the immediate removal of any such signs.
- Advertising Boards leant against walls etc will not be acceptable
- Advertising Boards or displays must not impede vehicular emergency access.
- Where an accumulation of Advertising Boards and/or displays occur and this results in the obstruction of the highway (i.e. in multi-use premises), if instructed by an officer of the Council, all Advertising Boards must be removed until an acceptable solution has been reached by all interested parties.
- Advertising Boards and displays must only be positioned outside the premises that they directly relate to. They must also be located on the same side of the road and in front of the frontage (i.e. 'remote' or advance directional Advertising Board will not be permitted).
- No Advertising Boards will be allowed on roundabout islands (central or splitters), road safety refuges and central reservations
- All signs and displays shall be removed prior to and during events likely to result in significant increase in level of footfall (i.e. carnivals, marathons, religious services and other public events).
- In placing an Advertising Board or display on the highway, the person or body responsible for placing the item shall be deemed to have indemnified the Council against all actions, proceedings, claims, demands etc for any injury or damage caused to highway users arising from the siting of the Advertising Board or display on the highway. The person/business placing the Advertising Board (or business name as displayed on the board) shall maintain public liability insurance to the value of £5 million and an original policy certificate shall be provided to the Council where requested.
- The Business is solely responsible for the Advertising Board or display placed on the highway and shall make no claim or charge against the Council in the event of such item being lost, stolen or damaged, howsoever this may have occurred.
- Non compliant signs may be removed without notice and taken to the Council's depot for collection by the owner. A retrieval fee will be payable by the owner and signs not collected after one month will be subject to disposal. The Council will consider prosecution against persistent offenders.

- Should the Council be required to remove and / or store any items from the highway the Business shall make no claim or charge against the Council in the event of such items being lost, stolen or damaged.
- The person placing the Advertising Board on the highway (or business/trading name displayed on the board) will be responsible for checking with the Council's Planning Department as to whether it requires any planning permission or advertisement consent. These Guidelines do not give consent for either of those requirements.

4.0 Visual impact

- 4.1 The Council is keen to see high quality Advertising Boards and displays as an integral and attractive part of the shopping area scene. To achieve this, the Council expects the design of the Advertising Boards and displays to be of a high quality and standard.
- 4.2 The Council reserves the right to require Advertising Boards and displays to be removed if at any time they are found to be inappropriate. This may happen if the Advertising board or display becomes.
- Unsightly or unsafe through poor maintenance
 - Inappropriate because of new developments in the vicinity
- 4.3 To maintain and enhance the high standards in our town shopping areas the Advertising Boards and displays shall be of high quality construction, well coordinated and in colours that are sympathetic to the surrounding area. Light weight, flimsy or tatty construction is considered unacceptable.

5.0 Environmental Implications

- 5.1 It is vitally important that the environment for customers, members of the public, local residents and staff is a prime consideration.

6.0 Other requirements

- No protruding elements that could cause trip or fall
- No elements that could cause injury to passers by i.e. splinters, snagging of clothes

7.0 Display Specific Requirements

- Displays of goods may only be located immediately outside the frontage of the premises so that staff and customers do not have to cross the normal flow of pedestrians.
- The items on display may only relate to the business or trade normally carried out and in any event the display of alcohol and gas bottles/canisters or other dangerous goods is not permitted.
- The display must not obstruct fire door exits and statutory undertakers' plant and equipment.

- The display must be entirely within the frontage of the trading establishment and be no wider than a third of the available highway footway up to a maximum of 2.5m.
- In pedestrianised areas a minimum of 3.5m wide route must be retained.
- No selling or trading on the highway is permitted. All transactions must take place on the business premises.

8.0 Displays Remote from Business Premises Specific Requirements and Licence Details.

8.1 A licence under Sections 115E and 115F of the Highways Act 1980 is required for Displays of Goods remote from the business premises on the Highway. This is to ensure that they are properly set up, licensed and operated so that it benefits the business, enhances the shopping area and does not cause a problem for other users of the street. They shall comply with the requirements of these guidelines and the additional requirements that form the licence conditions.

8.2 Goods displayed on the highway must be licensed by the Borough Council as the Highway Authority. There are four factors that will be taken into account when considering an application:

- The amount of space the Goods will remove from the public highway.
- How the proposed goods will look when set up.
- The effect the display may have on the passage of the public on the highway including local residents, workers, shoppers and visitors.
- That the display is in keeping with the surrounding environment of conservation areas.

8.3 On receipt of an application, a range of other Council Departments and organisations are consulted to ensure that the proposal is acceptable to them and whether any further application for permission, such as planning permission is required to be submitted. They include:

- The Borough Access Officer
- Planning and Conservation
- Town Centre Management
- Legal Services
- Environmental Health
- Local Councillors
- Town & Parish Councils
- Waste Management
- Cheshire Constabulary
- Cheshire Fire Service
- Regional Ambulance Service

8.4 A public notice will also be displayed close to the site of the proposed Display of Goods so that local people can comment if they wish. The results from the consultation exercise will be considered when determining the licence. As part

of the process, applicants will be required to submit evidence that they have public liability insurance of £5 million - an important requirement of the licence application.

- 8.5 Each application will be considered on its merits and its suitability to the local environment. Should a licence be granted, the licence holder must adhere to the conditions set out in this guide and the additional licence conditions otherwise the Borough will remove the display and terminate the licence.
- 8.6 The Goods to be displayed must be kept neat, tidy and safely in an attractive manner and be kept within the confines of the licensed area.
- 8.7 The Goods area must be kept clean, tidy and litter free and including an area of 5 metres surrounding it, must be swept and kept free of litter and debris at all times.
- 8.8 No cabling will be permitted across the highway
- 8.9 Additional guidelines may be added to licences as and when necessary.

9.0 Licence Fees

- 9.1 A flat rate charge of £450 would be payable on application, and where the Council is the owner of the sub-soil the charge of £90 per square metre taken up by the licensed area on completion of the licence. These fees would be payable prior to completion of the licence. Should an application fail then an amount of £150 would be refunded to the applicant. The retained portion reflects the Council's costs in dealing with the application. Provided there are no breaches of the licence, the licence would be renewed every three years, for an administrative fee of £100, under similar terms as the original licence.

10.0 General – Advertising Boards and goods displayed

- The Business/Trader must ensure that they have Public Liability Insurance to a value of £5 million and an original policy certificate provided to the Council where requested. The Business/Trader shall indemnify the Council as the Highway Authority against all claims that may arise in connection with the placing of an Advertising Board or display on the highway.
- The Council, as Highway Authority and Statutory Undertakers (gas, electricity and water) have the rights to carry out work within the highway. If required the Advertising Board or display shall be removed to allow access for the Highway works or Statutory Undertakers.
- The Council has powers under the Highways Act 1980 to take enforcement action where appropriate and to recover any expenses incurred. The Council is less likely to take enforcement action for obstructing the highway if the Advertising Boards and goods on the highway are displayed in compliance with the terms and conditions of this policy.
- The Advertising Board or display will be expected to enhance the local area. Any Business or Trader who places an Advertising Board or display

on the highway without meeting the requirements of the Council's policy will be instructed by the Council to remove the offending Advertising Board or display. The Council will use all of the powers at its disposal to remove the obstruction, prosecute where the Council deems appropriate and recover costs incurred.