

## ANGUS COUNCIL

ROADS COMMITTEE

29 JANUARY 1998

OBSTRUCTIONS ON PUBLIC ROADS - ADVERTISING SIGNS ETC

## REPORT BY THE DIRECTOR OF ROADS

**ABSTRACT**

This report discusses the difficulties created by advertising signs and other obstructions placed on the public roads and proposes a review of the interim policy adopted by Angus Council.

## 1 RECOMMENDATIONS

It is recommended that the Committee agree to:-

- (i) note the contents of this report
- (ii) authorise the Director of Roads to carry out a consultation exercise involving pedestrian groups, the commercial sector, and other interested parties, with a view to developing a practical and robust policy which can be implemented and enforced in the long term
- (iii) note that the Director of Roads will bring forward a further report following the consultation exercise recommending either the confirmation of the current interim policy or the adoption of a new policy on obstructions on public roads.

## 2 INTRODUCTION

Report no AC98/96 'Interim Roads and Transportation Policies' was approved by the Roads Committee on 28 February 1996. Policy 62 stated that 'No advertising signs, sandwich boards and other obstructions will be permitted on any road on the List of Public Roads, unless sufficient grounds can be shown for exemption'. This was the policy adopted from Tayside Regional Council and, as with the other inherited policies, was to be subject to review. The review of this policy is now proposed.

Report No 859/96 'Tourism Signing Policy' was approved by the Roads Committee on 17 October 1996 and gives new guidelines for the provision of Tourist Signs.

Report No 390/97 'Advertising in the Countryside - Review of Policy' was approved by the Development Control Committee on 10 April 1997 and gives guidance on signing/advertising in the countryside.

## 3 DETAILS

### 3.1 Legal Background

The types of sign which a Roads Authority can approve are prescribed in the Traffic Signs Regulations and General Directions and are limited to temporary direction signs for special events. Angus Council, as Roads Authority, has no legal power to approve advertising signs placed on a public road.

It is an offence under the Roads (Scotland) Act 1984 to place anything on a public road so as to cause an obstruction without the roads authority's consent. This could include such things as temporary signs, sandwich boards, and the display of goods outside shop frontages.

The Roads (Scotland) Act 1984 contains the following specific provisions:-

- (1) It is an offence to place anything on a road so as to cause an obstruction except with the roads authority's consent (s59). (A roads authority may grant consent in writing and in accordance with any reasonable conditions which they think fit to attach to the consent).
- (2) A person who places an obstruction on a road may be required by the Roads Authority or a police constable to remove it forthwith. If this requirement is not complied with, or the person cannot be readily traced, the roads authority may remove the obstruction and recover its expenses from the person (s59).
- (3) It is an offence to affix a sign upon the surface of a public road or upon a tree, traffic sign, milestone on structure on or in a road without lawful authority (s100).
- (4) It is an offence to displays goods for sale by placing them in, or hanging them over, a footway or footpath (s129 (9)) - (this does not apply to the offer or exposure for sale of newspapers).

### 3.2 **Current Position**

The interim policy on obstructions on Public Roads inherited from Tayside Regional Council is quite clear in its intent. However in practice there are two potential difficulties in enforcing a complete ban on unauthorised obstructions.

Firstly there is no definition of "obstruction" given in the Roads (Scotland) Act. On the one hand it could be argued that an advertising board placed on a wide footway or a pedestrianised area in such a way as to still allow free pedestrian passage, wheelchair and pushchair movement, etc is not obstructing the public's right of passage. On the other hand the same sign could pose an unnecessary additional hazard to someone with impaired vision and will be an

obstacle in the way of efficient litter sweeping, snow clearing, etc. Newsagents' billboards placed up against the shop frontage present only a marginal encroachment on the public footway. Signs placed up against existing street furniture (eg benches, control pillars, plant boxes, etc) only add slightly to an existing obstacle.

Secondly there is widespread use of on-street advertising by commercial business particularly those which rely to a large extent on "passing trade" (newsagents, cafes, fast food outlets, restaurants etc). Such businesses tend to be persistent offenders, particularly during the tourist season.

The risks involved for the person who puts out such a sign (requirement to remove the sign on request, possible prosecution under Section 59) have historically been an insufficient deterrent to prevent the practice continuing. There has also been, over a long period of time, toleration of display of goods outside shop premises for certain types of business (eg fruiterers, florists, ironmongers, garden supplies, etc). The proprietors of these shops often consider external display of goods to be essential to their survival in the face of competition from supermarkets, retail parks, etc and will question the enforcement of a policy where the custom and practice has been tolerated over a long number of years.

The Regional Council having established a policy towards obstructions on public roads adopted a low-key approach towards implementation and enforcement of its policy, generally reacting only to:-

- specific complaints regarding on street advertising in urban areas
- "fly-by-night" advertising posters for circuses, travelling sales, new housing developments, etc (which tend to be affixed to lighting columns, sign poles etc).

- post mounted advertising in grass verges on rural roads where there is a risk of damage to underground services, and indeed a personal risk to the person driving in the post(s).

The roads authority has no direct powers with respect to display of goods under Section 129(9). Enforcement would require action by the police and the Procurator Fiscal. Direct action by the Roads Authority under Section 59 would depend on the display being deemed to constitute an obstruction. Tayside Regional Council generally adopted a position of toleration with regard to on street display of goods at shop frontages.

The Roads Committee having adopted the former Regional Council's policy on obstructions on an interim basis, the Director of Roads has until now continued the Regional Council's low-key approach towards implementation and enforcement. However at a recent meeting with representatives from the Forfarshire Society for the Blind and the Guide Dogs for the Blind Association attention was drawn to the difficulties which unnecessary obstructions on public roads can cause for those with impaired vision. The Committee's guidance is therefore sought regarding a more rigorous enforcement of the policy regarding obstructions on public roads in accordance with Section 59 of the Roads (Scotland) Act 1984.

Such obstructions are objectionable on the following grounds:-

- (1) Unauthorised signs can constitute a road safety hazard by distracting the attention of drivers, by obscuring official road signs, and by affecting sight lines.
- (2) Signs are often mounted on posts driven into verges without any regard to buried statutory undertakers' plant.
- (3) An unauthorised sign can be deemed to be an obstruction on the road. In the event of an accident involving an obstruction, both the person

responsible for placing it and the Roads Authority that neglected to have it removed could be liable to a claim for damages.

- (4) Within urban areas, the proliferation of sandwich boards and goods offered for sale on public footways has led to concern being expressed by various pedestrian and disadvantaged persons groups about the dangers to pedestrians, particularly those with impaired vision.
- (5) Advertising signs generally require planning consent. The Director of Planning, Transport and Economic Development is also keen to control the number of roadside advertising signs and has produced an advice note for the public which clearly states that advertising signs are not permitted within the public road.

On the other hand, it could be argued that well designed signs and displays of goods placed with careful consideration to road users can enhance the street scene and make a positive contribution to the colour and character of the local environment.

### 3.3 Policy

The interim policy adopted by the Roads Committee of 28 February 1996 is re-stated here for ease of reference:-

“No advertising signs, sandwich boards and other obstructions will be permitted on any road on the List of Public Roads, unless sufficient grounds can be shown for exemption”.

It is recognised that display of goods outside certain types of shop premises has been tolerated as a long standing practice over which the roads authority has no direct control under Section 129 of the Roads (Scotland) Act 1984 (miscellaneous summary offences). While it might be possible to deal with such displays under Section 59 (control of obstructions), it is appreciated that a

complete ban might affect the commercial viability of some businesses. It is therefore proposed to review the current policy in consultation with interested parties.

### 3.4 Factors Requiring Consideration

- The Roads (Scotland) Act 1984 does not define an “obstruction” and is therefore open to interpretation. This makes enforcement of Section 59 potentially problematic.
- Although display of goods on or over a public road is a more clear-cut offence, Angus Council as local roads authority has no direct powers to enforce this section of the Roads (Scotland) Act 1984.
- Unnecessary obstacles on footways, footpaths and pedestrianised areas can be a hazard to pedestrians and other road users particularly people who are visually impaired or have mobility difficulties.
- If designed with care and placed with consideration for road users some on-street advertising and display of goods can add “local colour” to the street scene and may have a positive effect on tourism.
- A low key approach to the enforcement of the existing policy has been adopted to date. A rigorous enforcement approach is likely to be met with considerable resistance in the initial stages but may offer a more equitable and robust policy in the long term.
- Any change to, or enforcement of, the existing policy is more likely to be sustained in practice if it is supported by public opinion. This is best gauged by a consultation process. A consultation exercise may also help to reconcile the conflicting interests of affected parties and assist in developing a consensus of opinion.

### 3.5 **Parking**

In addition to the above matters, parking on footways can also cause problems for pedestrians particularly the visually and mobility handicapped. It is not an offence as such to park on a footway unless there are single or double yellow lines. It is however an offence to drive on a footway but this is difficult to enforce. The Police will however take action on instances brought to their attention.

## 4 **FINANCIAL IMPLICATIONS**

There are no significant financial implications arising from this Report.

## 5 **CONSULTATION**

The Chief Executive, the Director of Law and Administration, the Director of Finance and the Director of Planning, Transport and Economic Development and the Chief Constable have been consulted in the preparation of this Report.

## 6 **CONCLUSIONS**

The interim policy with regard to obstructions on public roads is under review. In order to take into account the interests of road users, the commercial sector and other interested parties it is proposed to carry out a consultation exercise.

Dr Bob McLellan  
DIRECTOR OF ROADS



NOTE

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above Report:-

Report No AC 98/96 'Interim Roads and Transportation Policies' - Roads Committee - 28 February 1996.

Report No 859/96 'Tourism Signing Policy' - Roads Committee - 17 October 1996.

Report No 390/97 'Advertising in the Countryside - Review of Policy' - Development Control Committee - 10 April 1997.

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