

## The Federation of Bath Residents Associations

Response to the B&NES Consultation Document on:-

### Footway obstructions and The Issuing of Permission to place amenities on the Highway.

March 2011.

FOBRA greatly appreciates the opportunity to comment on this consultation document. We believe it will provide an excellent framework for initiating a workable scheme to control business use of the public realm and indeed, if properly applied, it will address many of the current abuses by certain businesses.

The free and indiscriminate use of the public highway by many businesses is a growing nuisance throughout the city. The highway should not be an area for businesses to use as they please. It is a public space that should be available to everyone and be largely free of any unnecessary obstructions, as these cause a particular problem for people with disabilities and for proper street cleaning operations.

We have the following specific comments to make on each of the sections of this draft document:-

1. **Introduction.** We would like to see the final sentence changed to read "*The Council's policy is to create a street environment where amenities are only placed on the highway where they:*" etc.
2. **Purpose of the Policy.** We would like to see added:-
  - *Ensure that the highway and pavements in the historical core of the World Heritage Site are protected from commercial exploitation and degradation.*
  - *Ensure that full street cleaning can be achieved each day without unnecessary obstructions.*

#### 4. What does this policy cover?

We would like added

- *Placing any merchandise on the highway. ( We note that more and more business premises are now putting merchandise out on the pavements creating a Middle Eastern bazaar atmosphere with items often chained together which frequently cause obstruction and generally detract from the visitor experience when walking around the city.)*

The Policy should make clear that all existing A- Boards will be subject to all the requirements of the new licensing regime, and that there are no "grandfather" rights for existing A-Boards.

#### 5. Applying for Permission.

We should be grateful if FoBRA could be added to the list of organisations to be consulted. In the spirit of the Big Society we should be prepared to comment on compliance with the Policy.

6. **Exclusions.** No comment.

**Fees.** We feel that the fees levied should reflect the fact that businesses are using the highway for advertising and selling their business products or services. In that regard the fees should be set at a rate that goes some way to reflecting the financial benefit to the businesses. On A-Boards we believe that a fee of £3 per day for the right to advertise their premises is both reasonable and justifiable and indeed the same rate should apply for each table ( up to 4 people ) and for each sq metre of pavement used to sell merchandise.

7. **Refunds.** No comment.

8. **Enforcement.** In the first sentence we suggest *“may take direct action”* be changed to *“will take direct action”*. In the second paragraph we suggest the wording be changed from *“Under normal circumstances ....”* to *“In the first instance every effort will be made to gain compliance through negotiation”*.

In the paragraph beginning: *“Where this does not result in compliance the following action will be taken, such as:”* we would like to see the removal of *“\* take no further action”* as we cannot see why this would ever be reasonable if the regulations have been broken for a second time.

We believe the penultimate paragraph would better read *“Up to three warnings will be given for minor infringements before prosecution or fixed penalty notices are considered. In cases where there is more serious or repeated obstruction, then action may be taken at an earlier stage.”...”*

#### **Unauthorised Objects.**

Why is it proposed that commercial premises have 2 hours to remove an object? When notified the object should be removed immediately. For instance if the street cleaner needs an object removed to properly clean the street/pavement then the item(s) should be removed immediately to allow the public realm to be properly cleaned.

The Council having to keep the item for 3 months also seems an excessively tolerant policy. We believe the item should be kept for just 1 week which gives plenty of time for the offending premises to collect the item .

**Authorised Objects.** Again we believe the object should be relocated immediately and if after 10 minutes it has not been relocated it should be removed and placed in storage for 1 week awaiting collection, not 3 months.

**Other Contraventions.** The consultation document refers to *“dangerous structures, etc”* and then allows such contravention to remain for up to 1 week. This is not sufficiently firm and if dangerous structures are the problem this could expose the public to danger. We suggest the wording be altered to the following:-

- *The Authority will issue the permit holder with a warning requiring the holder to immediately correct the contravention.*
- *Failure to immediately correct a contravention will result in the item being removed from the highway and taken into storage.*
- *A person may collect an item from storage on payment of the Council’s reasonable removal, storage and release fees.*

- *The Council reserves the right to dispose of any uncollected objects after 1 week has expired and charge the offending premises any costs of such disposal including administration and storage costs.*

10. **Arbitration.** No comment.

11. **Modifications, Alterations or Amendments.** No comment.

## **CONDITIONS**

**Display of Permit.** We suggest that each permit be clearly displayed and that each permit has a unique barcode that can be scanned quickly by the enforcement officer to verify the item is approved, the address of the premises is correct and also that the officer should be quickly able to download any history concerning this permit including verbal warning information etc so the officer can act accordingly.

**Design.** We believe the licensing of A-Boards in particular gives the Council a unique opportunity to insist that licensees only buy A-Boards that meet the Public Realm and Movement Strategy's design and that the Council ensures that there are at least 2 or 3 suppliers who will supply the approved Bath A-Board to ensure competitive pricing and a degree of uniformity.

**Location.** We suggest that the words *"In addition"* be added to the beginning of the second bullet point so that not only should there be a minimum footway width of 1.8m but in pedestrian areas this has to be a minimum of 3.5 metres to allow for emergency vehicle access at all times. In the third group of bullet points we should also like it to be stated that A-boards must be positioned adjacent to the frontage of the trading establishment (as you have required for display of goods).

**Removal.** In the second sentence we suggest the wording at the end is *"...or at **any other time that may be specified by the Council.**"*

In the 3<sup>rd</sup> paragraph we suggest that the storage time again be just 1 week. If the premises want their item(s) back then 1 week is a reasonable time frame whilst we consider 3 months to be excessive.

**Insurance.** No comment.

### **A Boards and Goods display**

In the paragraph beginning *"In addition"* we suggest that the bullet points be amended to exclude the word *"normally"*.

**Tables & Chairs.** No comment.

**Bicycles & Motorcycles.** We suggest that this paragraph deals solely with bicycles. We strongly believe that Motorcycles should NEVER be parked on the pavements or attached to railings but should be parked on the street in approved parking areas as required for motorcars.

**Display of Goods.** In bullet point 2 we suggest the wording be

*All displays must be entirely within and adjacent to the frontage of the trading establishment and be no wider than a third of the available highway footway width with the proviso that there must at all times be a minimum pedestrian width of 1.8 metres and in pedestrian areas that the minimum width be 3.5 metres to allow for emergency vehicle access at all times.*

In bullet point 4 we suggest the removal of the word “normally”.

**Other Goods for Sale and promotional objects.** We believe that it should be made clear to businesses that any goods for sale or promotional objects and materials must be licensed and charged a licence fee similar to the charges levied for A Boards. In addition we suggest the last sentence be altered to read *“A minimum clear width of 1.8 metres shall be maintained at all times for the safe passage of pedestrians and that this be 3.5 metres in pedestrian areas to allow for emergency vehicle access at all times.*

## **PART B GUIDANCE ON TRADE WASTE CONTAINERS**

We suggest an amendment to the third bullet point to discourage businesses who leave containers out on Saturday afternoon for collection on Monday morning: *“For collection purposes all containers should be placed at the boundary of your property as early as possible on the morning of your collection day, but should not be left out overnight.”*

We suggest that an additional bullet point be added.

- *The outside of all containers must be kept completely clean and hygienic at all times.*