



# **C O R P O R A T E C O M M I T T E E**

**Wednesday 13 March 2024 at 6.30 pm  
Council Chamber, Hackney Town Hall**

**Supplementary papers: Keeping Hackney's  
Pavements clear and accessible**

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Published on: Wednesday 13 March  
2024  
[www.hackney.gov.uk](http://www.hackney.gov.uk)**

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## **Corporate Committee**

**Wednesday 13 March 2024**

### **Supplementary papers: Keeping Hackney's Pavements clear and accessible**

- 8 Report of the Public Realm including policies for tables and chairs on pavement (Pages 3 - 10):**
- Includes Cover sheet and update paper.

<b>Title of Report</b>	Keeping Hackney's Pavements clear and accessible
<b>For Consideration By</b>	Corporate Committee
<b>Meeting Date</b>	13 March 2024
<b>Classification</b>	Open
<b>Ward(s) Affected</b>	All
<b>Group Director</b>	Rickardo Hyatt

## 1. **Summary**

- 1.1. The Corporate Committee has taken an interest in the impact that temporary obstructions have on the pedestrian environment and how these are managed by the Council. This briefing note seeks to explain what enforcement activities are undertaken within the directorate, and the areas in which the enforcement responsibility can be located.

## 2. **Recommendations**

- 2.1. This paper is for information only and there are no recommendations. The exercise to clarify and collate all the enforcement areas and clarify what is enforceable/not enforceable, and by whom is an ongoing duty, and is reviewed annually.

## 3. **Background**

- 3.1. The Corporate Committee has previously considered this issue and has requested clarity regarding which part of the Council is responsible for different types of obstruction on the public highway.

## 4. **Comments of the Group Director of Finance and Corporate Resources.**

- 4.1. This paper and the attached briefing note provides information around the scope and responsibility of enforcement activity in relation to temporary obstructions to the pedestrian environment. The cost of the enforcement activity by the teams detailed is met using the existing budgets associated with those teams. The income produced from fixed penalty notices is recognised upon receipt.
- 4.2. There are no specific financial risks associated with the recommendation of the paper. The paper notes the annual review of fees to ensure the correct fee is being charged in line with statutory guidance.

**5. Comments of the Director of Legal, Democratic and Electoral Services**

5.1. Inset text here.

5.2. Insert text here. Delete if not required and scroll to the next section.

**Appendices**

**Briefing Note on Enforcement responsibility in CHE - 2024**

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## Keeping Hackney's Pavements clear and accessible

Wards:	All
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### **Background**

The Hackney Transport Strategy contains a 'movement hierarchy' that establishes in policy which road users should be considered first where there are competing demands for space on our streets. Pedestrians including those with mobility and vision impairments are at the top of the movement hierarchy and therefore must be considered first in the design and use of our streets.

Although it is ongoing work, the Council has for many years as standard practice prioritised pedestrians when making changes to the design of our streets, and this is reflected in standard design elements such as minimum widths for pedestrians, dropped kerbs, tactile pavements, pedestrian crossing points, lower motor vehicle speed limits, removal of pavement parking and an approach to placing new infrastructure such as cycle parking or electric vehicle charging points on the carriageway wherever possible and only on pavements when clear criteria is met that prioritises pedestrians.

However, pavements serve many purposes as well as providing passage for pedestrians. They are places where people gather to socialise, where trade happens, where people wait for buses, and they house critical infrastructure such as street lights, waste bins, trees, post boxes, and telecommunications and utility cabinets among other things. Prioritising pedestrians therefore is not about creating a completely sterile environment for pedestrians, that would be self-defeating in any regard as the Healthy Streets approach recognises that pedestrians, especially vulnerable pedestrians, benefit from 'places to stop and rest', 'shade and shelter' and 'things to see and do'. In short, some of what makes a space good for pedestrians, could also be characterised as a type of obstruction to their movement. The challenge is therefore to manage the space to balance these elements.

Broadly speaking, obstructions (or elements of a Health Street depending on point of view), can broadly be categorised as permanent (such as trees, street lights, utility cabinets) or temporary (such as tables and chairs, a-boards, dockless bikes or overhanging vegetation that can be cut back).

The Corporate Committee has taken an interest in the impact that temporary obstructions have on the pedestrian environment and how these are managed by the Council; this is the purpose and scope of this paper.

Within any Local Highway, or, Traffic Authority, (LHA or LTA) there are a diverse range of temporary activities which take place on, or adjacent to, the public highway (pavements are part of the public highway). Each Authority has an obligation to provide licence consents for many of these, the consents for which cannot be unreasonably withheld. These consents are implemented through various legislative frameworks, shown within the appendices.

It should be noted, however, that London Borough of Hackney is only directly responsible for the licensing and enforcement of activities, or events, on those highways within the borough which have been designated as “Hackney roads maintained at public expense”. To that end, LB Hackney is not responsible for the enforcement of unlicensed/unauthorised activities which occur on either private land or the Transport for London Network (TLRN).

This briefing note seeks to explain what enforcement activities are undertaken within the directorate, and the areas in which the enforcement responsibility can be located.

### **Reporting and handling obstructions**

The Council operates a single point of contact for reporting obstructions as part of its wider <https://reportaproblem.hackney.gov.uk/> platform.

Whilst there is a single customer facing point of contact, there are different teams within the Council responsible for different areas of enforcement and there is not a coordinating back office function. This means that efficiency of response is directly dependent on initial complaints or reports being correctly categorised so the report is distributed to the correct team.

A simplified table of responsibilities, shown below, has been created to aid with the categorisation of common reports, and the complete list of responsibilities is provided in the appendix.

### **Commonly reported obstructions and areas of responsibility**

<b><u>Issue</u></b>	<b><u>Responsibility</u></b>	<b><u>Approach</u></b>
Tables and chairs	Markets/Shop Fronts & Street Trading	2 different licensing Regimes. Shop Front Licences under the LLA 1990. These allow for Permanent and temporary licences to be issued and enforced against. The other is Licenced through the Business & Planning Act 2020 , introduced by Government where by applications are

		Consulted upon for 7 days and a Licence granted where appropriate. These pose a number of risks to the Local Authority.
Dockless bikes		
Abandoned bikes	Enforcement Team	Warning Letter/then remove
Overhanging vegetation	Streetscene	Identified through Highway Inspectors regime. Section 154 notice served on property owner / occupier. If ignored after 14 days, then 2nd notice is served on the property owner. If this should be ignored after 14 days, then the Council contractor will cut back the vegetation. All charges are reclaimed from the property owner.
A Boards	Community Safety / Enforcement Team	Warning Letter/FPN
Planters	Enforcement Team	Warning Letter/FPN
TfL Road Network - Tables and Chairs  - A Boards  - Bikes	- Licence & Enforcement through LBH - Transport for London - IAP Team  Transport for London	Inspection/action  Warning Letter/FPN  Warning letter/then remove

Additionally, the Corporate Committee has raised issues previously with certain types of obstructions that were not easily categorised though the existing process and there was a risk that they would slip between different parts of the Council. In particular, Dockless Bikes were a concern as a new technology that could lead to obstruction on the pavement.

A separate paper relating to Dockless Bikes was brought to the Corporate Committee in December 2023, but for the purpose of this paper, Dockless Bikes have been integrated into the Report a Problem platform.

### **Next Steps**

The exercise to clarify and collate all the enforcement areas and clarify what is enforceable/not enforceable, and by whom is an ongoing duty, and will be reviewed annually.

The information is being currently coordinated and recorded on an appropriate spreadsheet, ensuring all relevant aspects are identified.

It has been shared throughout the service to those officers who have responsibility for enforcement action for clarity. In addition, the information will be provided to the officers who coordinate and manage service requests/responses. This enables any enquiry to be directed effectively to the correct function area. In addition this will go some way to ensure that timely investigations and action are taken.



## APPENDIX

Offence/Issue	Legislation	FPN/PCN	Level of Charge	Responsible Team	Comments
Any of the above activities, situated on Private Land are usually managed by the landowner					
Failure to secure lighting, or other marking to skip	s139 (4a) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Failure to secure marking of builders skip with name and address of owner	s139 (4b) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Failure to secure removal of builders skip	s139 (4) (c) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Failure to comply with conditions of permission	s139 (4) (d) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Failure to remove, or reposition, builders skip	s140 (3) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Unauthorised interference with barriers on the highway (opening or closing of gates)	London Local Authorities Act Transport for London Act 2013 s15	Prosecution possible	Fine not exceeding level 3	Streetscene	Escalated to Enforcement Team if necessary
Painting or other inscribing or affixing pictures upon the surface of the highway, or upon a tree, structure or works on or in the highway	s123 (1) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Wilful obstruction of the Highway	s137(1) of the Highways Act 1980	FPN	£100/£50	Enforcement Team	
Erecting a building, fence or hedge on the highway	s138 of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Failure to comply with a notice requiring removal of tree or shrub	s141(3) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Using of stalls for roadside sales in certain circumstances	s147A(2) of the Highways Act 1980 s38 of the London Local Authorities Act	FPN	£100/£50	Markets/Enforcement Team	
Depositing of materials on a made up carriageway	s148(a) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Depositing material etc. within 15 feet from the centre of a made up carriageway	s148(b) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary

Depositing anything on the highway to the interruption of the user	s148(c) of the Highways Act 1980	FPN	£100/£50	Streetscene	
Pitching of booths, stalls, stands or encamping on the highway	s148(d) of the Highways Act 1980	FPN	£100/£50	Streetscene	
Failure to comply with notice requiring works to prevent soil or refuse escaping onto street or into sewer	s151(3) of the Highways Act 1980	FPN	£100/£50	Streetscene	
Failure to comply with notice requiring the removal of projection from buildings	s152(4) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Failure to comply with notice requiring alteration of door, gate or bar opening outwards onto street	s153(5) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Cutting or felling of trees/shrubs which overhang, or are a danger to roads or footpaths	s154(1) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Depositing things on highway which cause injury or danger	s161(1) of the Highways Act 1980	FPN	£100/£50	Streetscene	Escalated to Enforcement Team if necessary
Contravention of condition of Street Trading Licence or temporary licence	London Local Authorities Act 1990 s34	FPN	£100/£50	Markets	Escalated to Enforcement Team if necessary
Making false statement in connection with application for street trading or temporary licence	London Local Authorities Act 1990 s34(2)	FPN	£125/£75	Markets	Escalated to Enforcement Team if necessary
Resisting or obstructing authorised officer	London Local Authorities Act 1990 s34(3)	FPN	£250/£125	Markets/Enforcement Team	Escalated to Enforcement Team if necessary
Failure to produce street trading licence on demand	London Local Authorities Act 1990 s34(4)	FPN	£100/£60	Markets/Enforcement Team	Escalated to Enforcement Team if necessary
Unlicensed Street Trading	London Local Authorities Act 1990 s38(1)	FPN	£150	Markets/Enforcement Team	Escalated to Enforcement Team if necessary
Enforcement in regards to the above activities on Transport for London Network are managed through TfL's "Network Management and Resilience Team"					