

**Report to the *Cleaner, Greener safer communities*
Overview and Scrutiny Committee**

7th October 2015

Scrutiny Report Title

Fly Posting



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Introduction

To provide information regarding the processes involved with the management of fly posting within the Borough.

Background

There is no formal definition of fly-posting. However, it is generally taken to be the display of business advertising material on buildings and street furniture without the consent of the owner.

The Council's position

Fly posting is illegal and the Council can take enforcement action where necessary and appropriate.

It is believed that fly-posting can be unsightly and make our towns and villages less attractive for residents and visitors alike. It can make an area feel unsafe and uncared for and have a negative impact on people's perception of the area.

There are many legitimate ways for businesses and other organisations to promote their services, activities etc. without the need to resort to illegal fly-posting.

Charities and Community groups

The Council recognises the difficulties that this policy presents to charity and community groups, whilst we are working towards being a co-operative council there are requirements that charities and community groups must adhere to; these are detailed in the policy document (Appendix A)

The Powers used by the Enforcement Team

The Town and Country Planning Act

- The principal mechanisms are in section 224 and section 225 of the Town and Country Planning Act 1990 (as amended). Local planning authorities have specific powers to deal with:
- illegal hoardings;
- fly-posting;

Powers

Before taking any action, the local planning authority must serve a 'removal notice' on the person responsible for the erection and maintenance of the structure, provided they can be identified. If not, the local planning authority must fix the removal notice to the structure or display it in the vicinity and serve a copy on the occupier of the land, if one is known, or if one can be identified.

- If the removal notice is not complied with, within the time allowed (at least 22 days beginning with the date of the notice), the authority may remove the structure and recover expenses reasonably incurred in doing so from anyone served with the removal notice.
- **Fixed Penalty Notices**
- The Anti-Social Behaviour Act 2003 (sections 43-47) introduced the option of using
- Fixed Penalty Notices as an alternative to prosecution for flyposting.
- However, these can only be used against the person actually affixing the poster, not the company, business, club or other agency advertised on the poster.
- **Highways**
- Section 132 of the Highways Act 1980 enables the highway authority to remove unlawful advertisements such as pictures or signs attached to any trees, highway signs, structures or works in the highway.
- **Clean Neighbourhoods and Environmental Act 2005**

This act allows the Council to use fly-posting removal notices. If the fly posting is not removed under the terms of the notice, the council can remove it and recover the cost of doing so. An authorised officer must be satisfied that the defacement is detrimental to the amenity of the area, or is offensive in nature.

Questions to be addressed

Do members have any questions about the Policy or approach?

Outcomes

Our aim with the policy is to achieve a cleaner Borough were the negative impact of fly-posting is managed and reduced..

Supporting Information

Enforcement Team (Environmental Health)

The enforcement team do not remove unauthorised illegal fly-posting but they use powers to ensure that the poster beneficiary removes the notice; and if not they remove the posters / banners and try to recover the cost of this work.

Enforcement Team (Community Management sections)

Following a report of a fly posting incident, Inspections are carried out by the enforcement section and information recorded relating to poster contents. With (banner or large poster) a letter (fly-posting removal notice) (Appendix B) is sent to the company asking them to remove the offending posters within a given time scale (10 working days). Failure to remove the poster within the given time scale will entail staff from the section removing and destroying the banner / poster.

All small / medium A4 / A3 flyer are removed when inspected; this is carried out on an adhoc basis between two and three times per month dependent upon staff availability, these are disposed of, .

Constant offenders are written to warning them that future posting may lead to enforcement action being taken, and their details are passed to the Enforcement team Environmental Health.

A flow chart has been prepared which shows the processes involved with the current policy. (Appendix C)

Constraints

Exclusions from Fly posting prosecution

The flyposting policy shows the following organisations are exempt from prosecution:

- Planning notices
- Circuses / fairs
Are allowed to advertise on the site of the circus / fair for a limited period.
- Public Bodies
Such as government departments and utilities providers, signs to give directions / information to service users
- Borough Council
Land owner and used to promote council events or events associated with The Council.

Conclusions

This is our current approach to fly-posting and that we intend to continue to implement our policy within the resource restraints that are in place.

Relevant Portfolio Holder(s)

Ann Beech Environment and Recycling

Local Ward Member (if applicable)

Not applicable –all wards

Background Materials

Council Policy for Fly-posting

Appendices

Copy of letter sent out to fly posting offenders

Copy of fly posting policy

Classification: NULBC **UNCLASSIFIED**

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