

# **OVERVIEW & SCRUTINY BOARD**

27<sup>th</sup> February 2012

## **UPDATE ON DEALING WITH FLY-POSTING**

|                            |                            |
|----------------------------|----------------------------|
| Relevant Portfolio Holder  | Mike Webb/Margaret Sherrey |
| Portfolio Holder Consulted | Yes                        |
| Relevant Head of Service   | Guy Revans                 |
| Wards Affected             | All Wards                  |
| Non-Key Decision           |                            |

### **1. SUMMARY OF PROPOSALS**

- 1.1 This report provides the Committee with an update on how fly-posting within the district is dealt with and the work that officers are undertaking to improve and update procedures for dealing with fly-posting.

### **2. RECOMMENDATIONS**

- 2.1 Members are asked to note the content of the report and that further information and an updated fly-posting policy and procedure will be brought back to the Committee later in the year.

### **3. KEY ISSUES**

#### **Financial Implications**

- 3.1 Dealing with fly-posting is carried out within existing resources by community safety and environmental services officers and it is anticipated that there will be no direct financial implications as a result of an updated policy and procedure.

#### **Legal Implications**

- 3.2 There are a number of pieces of legislation which can be used to tackle fly-posting including the Town and Country Planning Act 1990, the Anti-Social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Act 2005 (CNEA). In addition, the highway authority has powers under the Highways Act 1980 to deal with fly-posting. Officers from Community Safety, Environmental Services, and Planning are working with colleagues from Worcestershire County Council to identify the most effective options that can be used at a local level.
- 3.3 Legal services will be consulted in the preparation of the Council's updated policy and procedure regarding the legal implications of dealing with fly-posting.

#### **Service/Operational Implications**

- 3.4 Fly-posting is generally regarded as any advertising material displayed on private and/or public property without the consent of the owner, and

that does not meet the requirements of the Town and Country (Control of Advertisement) Regulations 2007. It can be referred to as 'horizontal litter' and has a negative impact on the quality of the local environment.

- 3.5 Advertisements may be professionally produced or hand written on pieces of paper and may be found pasted on buildings, attached to lamp-posts, hoardings, railings, and street furniture, left under windscreens wipers on motor vehicles, and displayed on placards at roundabouts or along highway verges. 'A' boards can also constitute fly-posting if displayed without consent.
- 3.6 Fly-posting is an illegal activity which is not only unsightly but also gives an impression of neglect. This can attract other forms of vandalism and anti-social behaviour leading to the decline of an area. Fly-posting also creates litter which spoils the 'clean and green' environment the Council is seeking to maintain and it can obscure important traffic signs or create an obstruction to pedestrians and/or motorists.
- 3.7 In 2004 a task group produced a fly-posting policy and procedure and this was endorsed by Cabinet in December 2004. The adopted procedure included evidence gathering and the issuing of a standard warning letter and a visit to offenders to request the removal of the fly-post. In cases of repeat offences, a fine or anti-social behaviour order (ASBO) was to be issued.
- 3.8 Since the adoption of this approach, the Community Safety team through its Neighbourhood Warden scheme has followed this procedure, which has generally been effective in tackling fly-posting. Whenever practical, Neighbourhood Wardens have hand delivered warning letters to the proprietor of the business benefitting from the fly-posting. The warning letter insists that fly-posts be removed within a given timescale and that offenders desist from conducting their business in such a manner in the future. Since June 2007 (when Community Safety records of fly-posting incidents began) Neighbourhood Wardens have dealt with 184 incidents of fly-posting; each incident involving various numbers of posters, placards, banners and A-boards ranging from a single item to over 200 items at a time.
- 3.9 It should be noted that the latter stage of the procedure with the option of a fine or ASBO has not been implemented, as this has not been necessary to date. Also, it is felt that the issuing of an ASBO is not an appropriate course of action for dealing with fly-posting. 18 of the 184 incidents involved businesses that went on to offend on a second occasion. These incidents were due to a variety of exceptional circumstances that resulted in final warnings being issued and personal visits being made. This has proved effective as there have not been any persistent offenders in the District.

**OVERVIEW & SCRUTINY BOARD**

27<sup>th</sup> February 2012

- 3.10 The current policy does not differentiate between private land and the highway and the Neighbourhood Warden's efforts have been primarily focused on public land and land owned by Bromsgrove District Council. Advertising on private land without advertising consent is covered under the Town and County Planning Act and is dealt with by Planning services. The review of the policy and procedure will clarify the correct and most effective option for dealing with fly-posting on private land.
- 3.11 Since the adoption of the fly-posting policy in 2004, the Clean Neighbourhoods and Environment Act has come into force. It has amended and improved the procedures for issuing Fixed Penalty Notices (FPNs) to fly-posting offenders. FPNs are issued under Section 43 of the Anti-Social Behaviour Act 2003.
- 3.12 With these legislative changes and the introduction of environmental enforcement into the Community Safety Service, there is a need to update the fly-posting policy and procedure. This will ensure that the different approaches required based on land ownership are taken into account and that the Council's policy and procedure is up to date and effective. Officers aim to bring an updated Fly-Posting Policy and Procedure to Committee for approval in the summer of 2012.

**Customer / Equalities and Diversity Implications**

- 3.13 An Equalities Impact Assessment will be carried out and taken into consideration in the development of the updated policy and procedure.

**4. RISK MANAGEMENT**

- 4.1 Failing to have an effective approach to fly-posting can lead to an increase in the amount of 'horizontal litter' (that fly-posts can be seen to be) across local areas and result in a poor quality local environment.

**5. APPENDICES**

None

**6. BACKGROUND PAPERS**

Fly-posting Scrutiny Report April 2005

**7. KEY**

**FPN** – Fixed Penalty Notice

**CNEA** – Clean Neighbourhoods and Environment Act 2005

**ASBO** – Anti-Social Behaviour Order

**OVERVIEW & SCRUTINY BOARD**

27<sup>th</sup> February 2012

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