

# **CABINET**

Date 5<sup>th</sup> September 2012

## **REPORT TITLE Fly-posting Enforcement Strategy**

|                            |            |
|----------------------------|------------|
| Relevant Portfolio Holder  | Mike Webb  |
| Portfolio Holder Consulted | √          |
| Relevant Head of Service   | Guy Revans |
| Wards Affected             | All Wards  |
| Key Decision               |            |

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

- 1.1 This report provides the Committee with details of the proposed strategy and policies for dealing with fly-posting (the term commonly used for illegal advertising).

### **2. RECOMMENDATIONS**

- 2.1 **The Cabinet is asked to RECOMMEND to the Council that the Joint Fly-posting Strategy and associated policies attached at Appendix 1 be approved.**

### **3. KEY ISSUES**

#### **Financial Implications**

- 3.1 There are no direct financial implications; dealing with fly-posting is carried out within existing resources by Community Safety Enforcement Officers.

#### **Legal Implications**

- 3.2.1 The local authority has powers to take action against those responsible for fly-posting, those who benefit from the advertising and the owner/occupier of the property where the fly-posting occurs. The legislation that applies is as follows:

##### **3.2.2 The Anti-social Behaviour Act 2003**

Empowers local authorities to issue a fly-posting removal notice on the owner of a relevant surface, and a fixed penalty notice where the offence can be identified.

##### **3.2.3 The Clean Neighbourhoods and Environment Act 2005**

Sets the range of fines for a fixed penalty notice at £75 payable within 14 days, which can be reduced to £50 if paid within 7 days and makes it an offence to give a false name and address to an authorised officer proposing to issue such a notice, it also changes the defences available to companies benefiting from fly-posting.

##### **3.2.4 The Town and Country Planning Act 1990 (s.224)**

Makes it an offence for any person to display an advertisement in contravention of the regulations. Any person contravening the legislation is liable on summary conviction to a fine (currently) not exceeding £2,500.

**3.2.5 The Highways Act 1980 (s.132)**

Makes it an offence for any person to paint or in any way inscribe or affix any picture, letter or sign on the surface of a highway or on any tree or structure without the consent of the Highways Authority. Currently anyone found guilty of an offence is liable to a fine of up to £1,000 and, in the case of a second offence, up to £2,500.

- 3.3 The Legal Team has been consulted with regard to the legal implications.

**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 have 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 and can attract other forms of vandalism and anti-social behaviour leading to the decline of an area. It 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 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 continued to follow this procedure which has generally been effective in tackling fly-posting. Whenever practical, Neighbourhood Wardens have hand

delivered warning letters to the proprietor of businesses which have benefited from the fly-posting. The warning letters insist that fly-posts be removed within a given timescale and that offenders desist from conducting their business in such a manner in the future.

- 3.9 However, it should be noted that the latter stage of the procedure with the option of a fine or ASBO has never been implemented as this action has not been warranted and deemed a disproportionate course of action to take.
- 3.10 The current policy does not differentiate between private land and the highway and Community Safety'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 dealt with by Planning services.
- 3.11 Since 2004, the Clean Neighbourhoods and Environment Act has come into force and this provides an alternative and more practical option of 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 the environmental enforcement service working alongside community safety, there is a need to revise the policy and procedure to ensure that it takes into account the different approaches needed based on land ownership and that the Council's strategy and policy for tackling fly posting is up to date and effective.
- 3.13 The proposed Strategy and associated policies is included at Appendix 1. The strategy gives further details of how fly-posts are defined and how the Council will tackle fly-posting.

**Customer / Equalities and Diversity Implications**

- 3.14 Worcestershire County Council and North Worcestershire Environment Group have been consulted in the development of this strategy including colleagues from Planning Services, Community Safety and Legal Services.
- 3.15 An Equalities Impact Assessment will be carried out and taken into consideration in the development of the new strategy and policy.

**4. RISK MANAGEMENT**

- 4.1 Not having an effective approach to tackling fly-posting can result in a poor quality local environment with an increase in the amount of 'horizontal litter' that fly-posts can be seen to be.

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**5. APPENDICES**

Appendix 1 - Joint Fly-Posting Enforcement Strategy

**6. BACKGROUND PAPERS**

Fly-posting Scrutiny Report April 2005  
Joint Environmental Enforcement Strategy adopted by the Council in 2011

**7. KEY**

**FPN** – Fixed Penalty Notice

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

**ASBO** – Anti-Social Behaviour Order

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