

Joint Fly Posting Enforcement Strategy

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1. Introduction

The Council has a statutory duty to keep the district clean. Fly-posting (the term commonly used for illegal advertising) makes an area look untidy and if not removed, it can give the impression that an area is unkempt and will attract other environmental crime and anti-social behaviour such as litter and criminal damage. Fly-posts also have the potential to distract motorists causing road traffic collisions. In addition, the businesses involved in this practice are gaining an unfair advantage over their law-abiding competitors by not paying for advertising space.

This Strategy clarifies the Council's approach to tackling fly-posting through its enforcement activities. It explains how the Council works with partners and other agencies to tackle illegal advertisements and promote advertising within the parameters of the law.

2. What is fly-posting?

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.

The 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. In addition, 'A' boards situated on the public highway are also subject to the above Regulations and, if displayed without the necessary consents, constitute fly-posting and will be dealt with under this strategy.

3. The problems associated with fly-posting

- 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.
- It is a drain on local authority resources and an unwelcome expense for other landowners who are required to remove the advertisements from their property.
- It is a very cheap form of advertising which puts those who advertise legally at an unfair disadvantage.
- It can obscure important traffic signs or create an obstruction and distraction to pedestrians and/or motorists.
- It can cause injury if a placard or heavier-type sign dislodges from its fixings.

4. How advertisements are controlled

The Local Planning Authority is responsible for the day-to-day operation of the advertisement control system and for deciding whether a particular advertisement should receive advertising consent or not.

Some advertisements are excluded from control, whilst others benefit from deemed consent. The rules on advertising including details of those adverts that are exempt or have deemed consent are set out in the Town and Country Planning (Control of Advertisements) Regulations 2007.

ALL forms of advertisements (including those with deemed consent and those excluded from control) MUST comply with the following standard conditions:-

1. Be kept clean and tidy
2. Be kept in a safe condition
3. Have the permission of the owner of the site on which they are displayed including the Highways Authority if the sign is to be placed on highways land.
4. Not obscure or hinder the interpretation of official highway, rail, waterway or aircraft signs or otherwise make hazardous the use of these types of transport.
5. Be removed carefully where so required by the Planning Authority

5. What we mean by 'positive action'

This Strategy and policies promote lawful advertising. It is not a blanket ban on advertising but gives the Council the ability to deal with the variety of fly-posting problems that can occur.

Policy Statement 1

The Council will always take positive action to tackle fly posting that has an adverse affect on communities and environments, in line with relevant legislation and its own strategy.

In all cases where advertisements are allowed, the standard conditions outlined in Section 4 of this strategy and any other specific conditions required by legislation must be met.

6. The legal powers available to deal with fly-posting

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:-

- **The Anti-Social Behaviour Act 2003**
This Act 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.
- **The Clean Neighbourhoods and Environment Act 2005**
This Act 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.
- **The Town and Country Planning Act 1990 (s.224)**
It is 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.
- **The Highways Act 1980 (s.132)**
It is 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.

7. Reporting fly-posting

Incidents of fly-posting can be reported in a variety of ways through the Council's Customer Access Points.

For Bromsgrove District Council reports can be made:-

Online at www.bromsgrove.gov.uk

By Telephone on 01527 881 288 or

In person at Bromsgrove District Customer Service Centre, School Drive, Bromsgrove, B60 1AY

For Redditch Borough Council reports can be made:-

Online at www.redditchbc.gov.uk

By Telephone on 01527 534 123 or

In person at Redditch Customer Service Centre, Town Hall, Walter Stranz Sq, Redditch, B98 8AH

Batchley One Stop Shop, Batchley Shopping Centre, 183 Batchley Road, Redditch, B97 6JB – Mon/Tues/Fri 09.00 – 12.30 and Weds/Thurs – 13.30 – 17.30

Winyates One Stop Shop, Unit 3 Winyates Centre, Redditch, B98 0NR
Mon/Tues 13.30 – 17.00 and Weds/Thurs/Fri – 09.00 – 12.30.

Woodrow One Stop Shop, Woodrow Shopping Centre, Studley Road, Redditch, B98 7RY – Mon/Tues 09.00 – 12.30 and Weds/Thurs/Fri – 13.30 – 17.00

8. Recording reports of fly-posting

Details of fly-posting reports are logged on the Council's database and referred to the appropriate officer(s) for action.

Records will be maintained of those issued with consent to display advertisements, as well as those issued with advice, warning letters, notices, fixed penalty notices and those who have had court proceedings commenced against them.

9. How we respond to reports of fly-posting

The Council responds to reports of fly-posting in different ways depending whether it is on the highway, on council owned land or private land.

All reports of fly posting will be initially investigated by the Community Safety Enforcement Team. The team will identify whether the advert has advertising consent, is in contravention to the Town and County Planning Act 1990 and/or the Highways Act 1980, and details of the advert owner, advertising beneficiary and the land owner will be ascertained.

Policy Statement 2

If the reported advert(s) is located on the highway or on land owned by the Council; and does not contain the details of the advert owner or beneficiary or this information cannot be obtained through reasonable enquiry, it will be removed instantly.

As part of their daily cleansing duties the Council's Street Cleansing Teams will remove any illegal advertisements from the public highway, where the details of the advert owner and/or beneficiary are not present or cannot be obtained through reasonable enquiry.

Any advert which is deemed hazardous to the public will also be removed instantly.

If the advert owner and/or beneficiary can be identified a 48 hour notice to remove the item(s) will be given. Should the advertising remain after the 48 hour deadline, enforcement action will be taken and the fly posting removed and retained by the Council for 14 days before it is destroyed.

Enforcement action will be taken immediately against all those who have already received a 48 hour notice for prior incidents or have had previous enforcement action taken against them.

On private land where the advert owner or advertising beneficiary cannot be identified, the Council will seek to take positive action against fly posting with the land owner, under the guidance of the Council's Planning Enforcement Team.

At the discretion of the Community Safety Enforcement Officers, incidents of fly posting involving large quantities or large structures erected for the purpose of advertising may also be referred to the Council's Planning Enforcement Team to take additional action.

10. The steps we will take to prevent fly-posting

Policy Statement 3

The Council will:-

- Provide advice and information on advertising regulations to support businesses and individuals to advertise legally
- Include a 'no fly-posting' clause in council facility hire contracts and within the conditions of Street Trading Consents
- Request applicants for Temporary Event Notices to give an undertaking not to fly-post
- Refer any entertainment venues that habitually flout fly-posting legislation to the licensing team as persons 'not suitable' to hold a premises licence.
- Carry out fly posting enforcement activity in line with legislation and the Council's Enforcement Policy.
- Publicise enforcement action taken to deter other potential offenders
- Work with neighbouring authorities to tackle persistent offenders
- Publish this policy

11. How we will enforce the law

Formal action may be taken in respect of any illegal advertising that is reported or identified through community safety patrols; enforcement will be delivered in line with the Council's Joint Environmental Enforcement Strategy.

The following is an extract from the Joint Environmental Enforcement Strategy which outlines the types and levels of enforcement available to officers:

"The interface between giving advice and more serious enforcement action is critical. In Bromsgrove and Redditch a staged approach is used as outlined below:

<i>Stage 1</i>	<i>Advice given</i>
<i>Stage 2</i>	<i>Verbal warning</i>
<i>Stage 3</i>	<i>Written warning</i>
<i>Stage 4</i>	<i>Fixed penalty notice¹</i>
<i>Stage 5</i>	<i>Court proceedings</i>

¹ Fixed Penalty Notices for fly posting can only be issued by the authorised officers within the Community Safety Enforcement Team

Environmental Enforcement Officers are given complete discretion towards the severity of the penalty. It should also be noted it is not necessary to progress through the stages and offences can be taken to stage 5 on a first account if this is considered appropriate.

The authorities will use the power whereby a discount on a FPN can be offered for early payment.

The standard period for payment of fixed penalties is set in the legislation at 14 days. Once a FPN has been issued, an authority cannot prosecute for the alleged offence if the fixed penalty is paid within this period and this must be stated on the notice itself. For this reason, the period during which a discount for early payment is offered, must be less than 14 days and to avoid confusion, guidance recommends that it should not be more than 10 days.”

12. How the Council will work across departments including Community Safety, Street Cleansing Teams, Planning and Legal

An effective approach relies on good communication between those departments that have the powers to enforce legislation relating to fly-posting. Officers from Community Safety, Planning and Environmental Services will liaise and work with each other and, where necessary, Legal Services to tackle fly-posting problems in a consistent manner.

13. How the Council will work with Parish Councils, County Highways, the Police and other external partners and agencies

Policy Statement 4

Worcestershire County Council will be consulted with regards to any application to display outdoor advertisements within the district.

Worcestershire County Council will inform the Council of any consent they give to advertise on the highway.

Intelligence on persistent offenders and information on any enforcement action taken by the Council will be shared with the Hereford and Worcestershire Environmental Group.

Where necessary the Council will work together with the police, neighbouring authorities and other agencies to tackle persistent offenders.

The Council has the power to serve notice on utility companies and educational establishments to remove fly-posting from their property; however, this course of action will only be taken if informal approaches fail. This approach in dealing with defacement on property owned by utility companies and educational establishments is in line with DEFRA guidance.

Utility companies and educational establishments will be informed of any fly-posts seen on their property. If permission is given and the adverts are readily accessible they will be removed. Persistent fly posting problems on structures and land owned by utility companies and education establishments will be tackled through partnership working.

Parish Councils are encouraged to report fly-posting within their areas to the Council as are Neighbourhood Watch schemes and resident groups; the Council will feedback any positive outcomes that arise from these reports.

14. Non Commercial Advertising

Non commercial advertising is advertising for purposes that are not for profit or gain or to promote a commercial organisation. This normally consists of advertising which is sponsored by or for a charitable purpose or civic, religious or political organisation. Non commercial advertising may include but not exclusively local community events organised by youth groups, schools, churches, or voluntary organisations.

Policy Statement 5

The Council will not take enforcement action against unlawful non commercial advertising on the first occasion an organisation has been identified. The Council will provide advice to such organisations on how to advertise lawfully and gain the necessary consents. Once an organisation has been given advice there will be an expectation that advertising consent and consent from the land owner will be in place for all of its future advertising. Failure to advertise lawfully following receipt of advice and guidance will result in enforcement action being taken as would be applied to unlawful commercial advertising.

All non commercial advertising must adhere to the 5 standard advertising conditions, (see Section 4). Advertisers must have consent from the land owner including the Highways Department if placed on a road, path, verge or piece of highway furniture. Contact with the Highways Department at Worcestershire County Council should be made at least 4 weeks in advanced of advertising on a highway to allow advertising consent to be granted.

Further Information

The legislation that applies to advertising is complex and, if in any doubt, you are advised to seek advice from the Councils Planning Enforcement Team on what steps you need to take to ensure that you are acting within the law. Telephone enquiries can be made to the Council's Planning Enforcement Team. (See Customer Contact information at Section 7).

For further information on this policy, please contact Environmental Services. (See Customer Contact information at Section 7).